Supreme Court, U.S.
FILED

No. 97 1808 MAY 6 - 1998

OFFICE OF THE CLERK

IN THE

SUPREME COURT of the UNTED STATES

October Term, 1998

MICHAEL BELLESFIELD,
Petitioner

v.

ATTORNEY GENERAL OF THE STATE
OF NEW JERSEY, et.al.

On Petition For Writ Of Certiorari
To The U.S. 3rd Circuit Court of Appeals

APPENDIX TO PETITION FOR WRIT OF CERTIORARI

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APPENDIX

94 pp

SUPREME COURT OF THE UNITED STATES OF AMERICA

APPENDIX

ORDERS, OPINIONS, AND FINDINGS ENTERED
INCONJUNCTION WITH JUDGEMENT FOR REVIEW

CONSTITUTIONAL PROVISIONS AND STATUTES
RELEVANT TO THIS CASE

OTHER RELEVANT/ESSENTIAL EXHIBITS

UNITED STATES DISTRICT COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 97-5467

MICHAEL BELLESFIELD; ERIC BELLESFIELD,
a minor

v.

ATTORNEY GENERAL OF THE STATE OF NEW JERSEY, PETER ALVINO, individually and in official capacity; NEW JERSEY DEPT. OF HUMAN SERVICES, WILLIAM WALDMAN, DIRECTOR, in official capacity only; DIVISION OF YOUTH AND FAMILY SERVICES, JAMES VALENTINE, DAVID JOHNSTON, individually and in official capacities; FAMILY ENRICHMENT PROGRAM; MORRISTOWN FORENSIC ASSOCIATES, MICHAEL SHEA, MICHAEL FIORE, individually and in official capacities; MORRIS COUNTY PUBLIC DEFENDER'S OFFICE, JOEL HARRIS, individually and in official capacity; RANDOLPH TWP. SCHOOL SYSTEM, CARMINE GAITO, NORMA MIELE, SUSAN HERSCHMAN, ERIC HERSCHMAN, individually and in official capacities; MORRIS HILLS SCHOOL SYSTEM, BRADLEY, MR., STORM, MR., individually and in official capacities; CHILD PLACEMENT REVIEW BOARD, SUZANNE WARREN, individually and in official capacity.

Michael Bellesfield,

Appellant.

On Appeal from the United States District Court

for the District of New Jersey

(D.C. No. 97-cv-01181)

District Judge: The Honorable Alfred J. Lechner, Jr.

Submitted under Third Circuit LAR 34.1(a)

January 5, 1998

Before: BECKER, ALITO and ALDISERT, Circuit Judges.

JUDGMENT

This cause came on to be considered on the record from the United States District of New Jersey and was submitted under Third Circuit LAR 34.1(a) on January 5, 1998.

On consideration whereof, it is now here ADJUDGED and ORDERED by this court that the judgment of the district court entered June 26, 1997, be and the same is hereby affirmed.

Costs taxed against the appellant.

Attest:

s "P. Douglas Sisk"

Dated: FEB 6 1998 P. Douglas Sisk

O:\PRO.SE\JAN.98\BELLESFI\MEMO.DIS Clerk

NOT FOR PUBLICATION

UNITED STATES DISTRICT COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 97-5467

MICHAEL BELLESFIELD; ERIC BELLESFIELD,
a minor

v.

ATTORNEY GENERAL OF THE STATE OF NEW JERSEY, PETER VERNIERO, in official capacity only; PETER ALVINO, individually and in official capacity; NEW JERSEY DEPT. OF HUMAN SERVICES, WILLIAM WALDMAN, DIRECTOR, in official capacity only; DIVISION OF YOUTH AND FAMILY SERVICES, JAMES VALENTINE, DAVID JOHNSTON, individually and in official capacities; FAMILY ENRICHMENT PROGRAM; MORRISTOWN FORENSIC ASSOCIATES, MICHAEL SHEA, MICHAEL FIORE, individually and in official capacities; MORRIS COUNTY PUBLIC DEFENDER'S OFFICE, JOEL HARRIS, individually and in official capacity; RANDOLPH TWP. SCHOOL SYSTEM, CARMINE GAITO, NORMA MIELE, SUSAN HERSCHMAN, ERIC HERSCHMAN, individually and in official capacities; MORRIS HILLS SCHOOL SYSTEM, BRADLEY, MR., STORM, MR., individually and in official capacities; CHILD PLACEMENT REVIEW BOARD, SUZANNE WARREN, individually and in official capacity.

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Submitted under Third Circuit LAR 34.1(a)
January 5, 1998

Before: BECKER, ALITO and ALDISERT, Circuit Judges.

(Filed FEB 06 1998)

MEMORANDUM OPINION OF THE COURT

ALDISERT, Circuit Judge.

This pro se appeal by Michael Bellesfield requires us to decide whether the district court properly applied the abstention doctrine of Younger v. Harris, 401 U.S. 37 (1971), to dismiss without prejudice an action against various New Jersey agencies and

officers. We have jurisdiction over the order dismissing the action without prejudice because the order "ended this suit so far as the District Court was concerned.: Trent v. Dial Med. of Fla., Inc., 33 F.3d 217 220 (3d Cir. 1994) (quoting United States v. Wallace & Tiernan Co., 336 U.S. 793, 794 n.1 (1949)). We will affirm the judgment of the district court.

Michael Bellesfield filed a complaint in the district court to challenge both the constitutionality of N.J. Stat. Ann. § 9:6-8.21, which governs adjudication of allegations of child abuse and neglect, and the manner in which the statute has been applied by the New Jersey courts when his son, Eric Bellesfield, was removed from his custody and placed in a foster home under the care and supervision of the New Jersey Division of Youth and Family Services. In the district court, Bellesfield named numerous defendants, including officials and agencies of the State of New Jersey and Morris County involved in protective services. The complaint purported to be a combination habeas corpus petition pursuant to 28 U.S.C. § 2255 and a civil rights complaint pursuant to 42 U.S.C. § 1983. After some threshold proceedings, Bellesfield filed an amended complaint, seeking to have the district court order an immediate release of his son from the custody of the New Jersey Division of Youth and Family Services. He also sought damages in the amount of three million dollars and a temporary injunction preventing New Jersey from going foraward with a state superior court action. He also filed a separate Motion for Injunctive Relief.

In the response to Bellesfield's Motion for Injunctive Relief, the district court ordered him to show cause why the district court should not abstain from exercising jurisdiction. The district court concluded that in deference to New Jersey's child welfare and judicial systems it could not take any action which would interfere with the child custody proceedings that are still pending in the Superior Court of New Jersey and dismissed the complaint without prejudice. this appeal followed.

I.

We agree with the district court that, in the long line of abstention doctrine decisions beginning with Younger v. Harris, the Supreme Court has enunciated a strong public policy against interference with ongoing state judicial proceedings even when a constitutional violation is alleged. Although Younger involved state court criminal proceedings, the Court has extended the doctrine to the civil context, including administrative proceedings. See Ohio Civil Rights Comm'n v. Dayton Christian Schools, Inc., 477 U.S. 619 (1986); Middlesex County Ethics Comm'n v. Garden State Bar Ass'n, 457 U.S. 423 (1982); Williams v. Redbank Bd. of Educ., 662 F. 2d. 1008 (3d. Cir. 1981).

In Middlesex, the Court set forth a three-part test to determine whether the , the Court set forth a three-part test to determine whether the Younger abstention doctrine should be applied in a particular case: (1) there must exist an ongoing state proceeding which is judicial in nature; (2) the state proceeding should implicate important state interests; and (3) the state proceeding must afford an adequate opportunity to raise any constitutional challenges. Middlesex, 457 U.S. at 432.

The district court engaged in a detailed analysis of this test and concluded that the abstention doctrine should apply. Moreover, the district curt also addressed the possibility of exceptions to the doctrine, which should be made only on a "showing of bad faith, harassment, or any other unusual circumstances that would call for equitable relief." Younger, 401 U.S. at 54.

II.

We do not deem it necessary to repeat the details of the district court's extensive analysis of the Younger abstention doctrine as applied to this case, set forth in the district court's 25-page opinion. We are satisfied with the court's reasoning.

The first prong of the test was established because there was a pending state judicial proceeding. Bellesfield admits that this

"Complaint does seek the intervention of the Federal Court during the course of state proceedings...., contrary to doctrines of federalism and abstention." App. 1- App. 20. The pending state action involves custody of Eric Bellesfield and the same set of operative facts that apply here.

The second prong was also met. The important state issue still being litigated focuses on child welfare. Questions of family relations, including custody of children, have historically been an area of state, not federal, concern. Moore v. Sims, 442 U.S. 415, 435 (1979).

the third prong requires an inquiry as to whether the state proceeding affords an opportunity to raise any constitutional challenges. Bellesfield had the opportunity to raise any constitutional issues in the state court proceedings.

We therefore conclude that the district court did not err in applying the Younger abstention doctrine and dismissing the complaint without prejudice. We have considered all arguments advanced by the parties and have concluded that no further discussion is necessary. Accordingly, the judgment of the district court will be affirmed.

TO THE CLERK:

Please file the foregoing opinion.

DATED: FEB 6 1998

s/ " Al Sisert "

Circuit Judge

February 6, 1998

United States District Court of Appeals for the Third Circuit

To: Mr. Michael Bellesfield
Robert D. Kretzer, Esq.
Paul G. Witko, Esq.
Joanne Butler, Esq.
Benjamin E. Fleischner, Esq.
M. Diana Johnston, Esq.
Saju C. Mathew, Esq.

NOTICE OF JUDGMENT

This Court's Opinion was filed and Judgment entered pursuant to Rule 36, Federal Rules of Appellate Procedure, today in case. No. **97-5467**. A copy of the opinion and judgment are enclosed herewith. Also enclosed is copy of Order filed today.

PETITION FOR REHEARING
(FRAP 40 and Third Circuit LAR 35 and IOP Chapter 9)

Rehearing by the Court in banc pursuant to Rule 40, Federal Rules of Appellate Procedure, is not favored. Third Circuit LAR 35.4. In regard to when rehearing by the court in banc might be granted, your attention is specifically directed to Third Circuit IOP Chapter 9:

IOP 9.3 Criteria for Rehearing in Banc.

IOP 9.3.1 This court strictly follows the precept of Rule 35(b), Federal Rules of Appellate Procedure, that rehearing in banc is not favored and will not be ordered unless consideration by the full court is necessary to secure or maintain uniformity of its decision or the proceeding involves a question of exceptional importance.

IOP 9.3.2 This court does not ordinarily grant rehearing in banc when the panel's statement of the law is correct

and the controverted issue is solely the application of the law to the circumstances of the case.

IOP 9.3.3 Rehearing the banc is ordinarily not granted when the only issue presented is one of state law.

Nor, except in rare cases, has the court granted rehearing in banc where the case was decided by a judgment order, a memorandum opinion, or unpublished per curiam opinion.

IOP 9.5 Rehearing In Banc on Petition by Party.

IOP 9.5.1 It is presumed that a petition for rehearing before the panel or suggestion for in banc rehearing filed by a party as provided by Rule 35(b) or 40(a), Federal Rules of Appellate Procedure, requests both panel rehearing and rehearing in banc, unless the petition for panel rehearing under Rule 40(a) states explicitly that it does not request in banc rehearing under Rule 35(b).

Statement of Counsel Where the party petitioning for rehearing in banc is represented by counsel, pursuant to Third Circuit LAR 35.1 the petition shall contain, so far as is pertinent, the following statement of counsel:

> "I express a belief, based on a reasoned and studied professional judgment, that the panel decision is contrary to decisions of the United States Court of Appeals for the Third Circuit or the Supreme Court of the United States, and that consideration by the full court is necessary to secure and maintain uniformity of decisions in this Court, to-wit, the panel's decision is contrary to the decision of this Court or the Supreme Court in [citing specifically the case or cases],
>
> Or, that this appeal involves a question of exceptional importance, to-wit [set forth in one sentence]."

The filing of petitions for rehearing or rehearing in banc is not favored. Rule 35, Federal Rules of Appellate Procedure and Third Circuit LAR 35.4. Counsel is reminded that a duty is owed to the Court commensurate with that owed to their clients not to file petitions for rehearing in banc which do not meet the rigorous requirements of Rule 35, Federal Rules of Appellate Procedure and Third Circuit LAR 35.1.

Attachments

Pursuant to Third Circuit LAR 32.3(b) and 35.2 attached to each petition for rehearing must be a copy of the judgment, order or decision of the Court as to which rehearing is sought and any memorandum or opinion of the court stating the reasons therefor.

Filing Time

A petition for rehearing may be filed within 14 days of the date of the Court's judgment or final decision was entered on the docket unless the appeal is a civil case in which the United States is a part. Rule 40(a), Federal Rules of Appellate Procedure. In a civil case in which the United States is a party, any petition for rehearing must be filed within 45 days of entry of the Court's final judgment or decision. Id. **These filing deadlines are calculated from the date of this notice**. No extension will be granted save for the most compelling reasons. The petition must be received in the Clerk's office within the time permitted for filing a petition. A petition is filed as of the date of receipt and **not** of mailing.

Pursuant to Rule 35(c), Federal Rules of Appellate Procedure, any request for rehearing by the Court in banc must be filed at the same time that a petition for panel rehearing is filed. Neither the Court's rules not its Internal Operating Procedures allow a process in which a subsequent request for rehearing in banc is filed after a petition for panel rehearing has been denied.

Form, Answer

The 15-page limit allowed by the Rule shall be strictly observed. This page limit will also be applied to any answer that the Court may request be filed.

A petition for rehearing, and any answer thereto, must comply with the requirements of Rule 32(a), Federal Rules of Appellate Procedure and Third Circuit LAR 32.1 as to form, typeface, spacing, footnotes, etc. Colored covers are not required.

The petition shall state with particularity the points of law or fact which in the opinion of the petitioner the court has overlooked or misapprehended and shall contain such argument in support of the petition as the petitioner desires to present. No answer to a petition for rehearing will be received unless requested by the court. Rule 40(a), Federal Rules of Appellate Procedure. Oral argument in support of the petition will not be permitted.

Number of Copies

An original and 15 copies of a petition for rehearing before the Court in banc is required.

An original and 3 copies of a petition for rehearing before the original panel is required.

Bill of Costs (FRAP 39 and Third Circuit LAR 39)

Filing Time

A party to who costs are allowed, who desires taxation of costs, shall file a bill of costs within 14 days after judgment. The bill of costs must be received in the Clerk's office within the 14 day period.

Form

Counsel desiring to have costs taxed against the unsuccessful party under Rule 39, Federal Rules of Appellate Procedure, must include either and

itemized statement from a printer or an affidavit of counsel, as required by the clerk's bill of costs form. Third Circuit LAR 39.4. Proof of service of the bill must be attached.

Taxation of Costs (Third Circuit LAR 39.3)

Taxation of Costs

The cost of printing or otherwise reproducing necessary copies of briefs and appendices shall be taxable according the Third Circuit LAR 39.3. That rule establishes specific amounts which will be allowed as costs.

Certificate of Service for Institutional or Incarcerated Litigant

Certification of Service

In addition to including a certificate of service, all litigants who are currently institutionalized or incarcerated would include the following statement on all documents to be filed with this Court:

> I certify that this document was given to prison officials on **[date]** for forwarding to the Court of Appeals. I certify under penalty of perjury that the foregoing is true and correct. 28 U.S.C. Sec. 1746.

Mandate (FRAP 41(a))

Issuance Time

The mandate is issued 7 days after the time for filing a petition for rehearing has expired. Rule 41(a). Federal Rules of Appellate Procedure. In most cases (in the absence of the filing of a petition for rehearing) the mandate will issue 21 days after entry of the Court's final judgment or decision. However, where the United States is a party in a civil case and in the absence of a timely filed petition for rehearing, the mandate

will issue 52 days after entry of the Court's final judgment or decision. Id.

Motion to Stay Mandate

The filing of a motion to stay issuance of the the mandate is not a prerequisite for filing a petition for writ of certiorari. Such a motion is to be filed only where issuance of the mandate will have a **substantive** effect. Third Circuit IOP Chapter 10.8.2. If issuance of the mandate will have a **substantive** effect, a motion to stay the mandate shall be filed promptly.

P. DOUGLAS SISK, Clerk

By: Carolyn Hicks
Case Manager
Direct Dial 215-597-3143

Enclosure
Rev. 1/95

NOT FOR PUBLICATION

UNITED STATES DISTRICT COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 97-5467

MICHAEL BELLESFIELD; ERIC BELLESFIELD,
a minor

v.

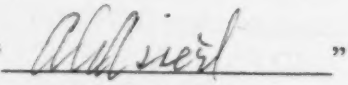
ATTORNEY GENERAL OF THE STATE OF NEW JERSEY, PETER ALVINO, individually and in official capacity; NEW JERSEY DEPT. OF HUMAN SERVICES, WILLIAM WALDMAN, DIRECTOR, in official capacity only; DIVISION OF YOUTH AND FAMILY SERVICES, JAMES VALENTINE, DAVID JOHNSTON, individually and in official capacities; FAMILY ENRICHMENT PROGRAM; MORRISTOWN FORENSIC ASSOCIATES, MICHAEL SHEA, MICHAEL FIORE, individually and in official capacities; MORRIS COUNTY PUBLIC DEFENDER'S OFFICE, JOEL HARRIS, individually and in official capacity; RANDOLPH TWP. SCHOOL SYSTEM, CARMINE GASTO, NORMA MIELE, SUSAN HERSCHMAN, ERIC HERSCHMAN, individually and in official capacities; MORRIS HILLS SCHOOL SYSTEM, BRADLEY, MR., STORM, MR., individually and in official capacities; CHILD PLACEMENT REVIEW BOARD, SUZANNE WARREN, individually and in official capacity.

Michael Bellesfield,

Appellant.

ORDER

The motion of stay for mandate is denied.

s/ "  "
Circuit Judge

cmh/cc: MB
JB
BAF
MDJ
RDK
SCM
PGW

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

MICHAEL BELLESFIELD, ERIC BELLESFIELD, a minor, Plaintiffs, v. ATTORNEY GENERAL, STATE OF NEW JERSEY, PETER VERNIERO, in official capacity only, PETER ALVINO, individually and in official capacity, NEW JERSEY DEPT. OF HUMAN SERVICES WILLIAM WALDMAN, DIRECTOR, in official capacity only, DIVISION OF YOUTH AND FAMILY SERVICES, JAMES VALENTINE, DAVID JOHNSTON, individually and in official capacities FAMILY ENRICHMENT PROGRAM, MORRISTOWN FORENSIC ASSOCIATES MICHAEL SHEA, MICHAEL FIORE, individually and in official capacities, MORRIS COUNTY PUBLIC DEFENDER'S OFFICE, JOEL HARRIS, individually and in official capacity, RANDOLPH TOWNSHIP SCHOOL SYSTEM, CARMINE GAITO, NORMA MIELE, SUSAN AND ERIC HERSCHMAN, individually and in official capacities, MORRIS HILLS SCHOOL SYSTEM, MR. BRADLEY, MR. STORM, individually and in official capacities, CHILD PLACEMENT REVIEW BOARD, SUZANNE WARREN, individually and in official capacity, Defendants.	)	CIVIL ACTION NO. 97-1181 (AJL) ORDER

This matter having come before the court upon an order to show cause, filed 23 April 1997 (the "Order to Show Cause"), and the parties having responded to the Order to Show Cause, and for the reasons set forth in a Letter-Opinion, filed on this date,

IT IS, on this 26th day of June, 1997

ORDERED, that this court will abstain from exercising jurisdiction over the instant case, and it is further

ORDERED, that the instant matter case be and hereby is dismissed without prejudice.

s/ " Alfred Lechner "
ALFRED J. LECHNER, JR. U.S.D.J.

UNITED STATES DISTRICT
DISTRICT OF NEW JERSEY
26 JUNE 1997

NOT FOR PUBLICATION

LETTER-OPINION
ORIGINAL FILED WITH THE CLERK OF THE COURT

Michael Bellesfield
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(Pro se plaintiff)

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(Co-Counsel for defendant Morris Hills School System)

Robert D. Kretzer, Esq.
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601 Pavonia Avenue
Jersey City, New Jersey 07306-2989
(Counsel for defendant Randolph School System)

RE: Michael Bellesfield, Eric Bellesfield v. Attorney General of the State of New Jersey, et al.
Civil Action No. 97-1181 (AJL)

Mr. Bellesfield and Counsel:

Pro se plaintiff Michael Bellesfield ("Michael Bellesfield") has brought the instant action on behalf of himself and his son Eric Bellesfield ("Eric Bellesfield"), a minor (collectively, the "Plaintiffs")[1] against Attorney General of the State of New Jersey, Peter Verniero, in his official capacity only (the "Attorney General"), Peter Alvino, individually and in his official capacity ("Alvino"), New Jersey Department of Human Services< William Waldman, Director, in his official capacity only ("Human Services"), Division of Youth and Family Services, James Valentine, David Johnston, individually and in their official capacities ("DYFS"), Family Enrichment Program, Morristown Forensic Associates, Michael Shea, Michael Fiore, individually and in their official capacities ("Family Enrichment"), Randolph Township School System, Carmine Gasto, Norma Miele, Susan and Eric Herschman, individually and in their official capacities ("Randolph School System"), Morris Hills School System, Mr. Bradley, Mr. Storm, individually and in their official capacities ("Morris School System") and Child Placement Review Board, Suzanne Warren, individually and in her official capacity ("Child

[1] Michael Bellesfield may not act as legal counsel on behalf of his Eric Bellesfield. See Amended Complaint, ¶ 1. A parent who is not an attorney "must be represented by legal counsel in bring an action on behalf of his or her minor children." Osei-Afrive v. Medical College of Pennsylvania, 937 F.2d 876, 878 (3d Cir. 1991).

Placement") (collectively, the "Defendants"). Jurisdiction is alleged pursuant to 28 U.S.C. § 1983, Amended Complaint, ¶ 1, and appears proper pursuant to 28 U.S.C. § 1343.

Currently pending is an order to show cause (the "Order to Show Cause") why this court should not abstain from exercising jurisdiction over the instant case.[2] For the reasons set forth below, this court will abstain from exercising its jurisdiction.

I. Background

A. State Court Action

On 8 January 1994, Eric Bellesfield reported to DYFS that Michael Bellesfield had dragged him from a convenience store and struck him across the chest. See DYFS v. Bellesfield, No. FN-14-33-94 (N.J. Super. Ct. 22 August 1995) (the "22 August 1195 Decision"), attached as Exhibit A to the New Jersey Response; Amended Complaint, ¶ 10. At that time, Michael Bellesfield signed a voluntary placement agreement (the "Placement Agreement") placing Eric Bellesfield in DYFS custody. See 22 August 1995 Decision at 2. Michael Bellesfield later revoked the Placement Agreement. See id.

On 14 January 1994, DYFS initiated an action (the "Superior Court Action") for an order placing Eric Bellesfield in its protective custody. See 22 August 1995 Decision at 1, 2. DYFS alleged Michael Bellesfield had abused Eric Bellesfield, as defined by N.J.S.A. 9:6-8.21(c).[3] See id.

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[2] Michael Bellesfield submitted: amended complaint (the "Amended Complaint"); Letter Brief in Response to 23 April 1997 Order to Show Cause (the "Bellesfield Response").

The Attorney General, on behalf of the Attorney General, DYFS, Alvino, Human Services and Family Enrichment submitted: letter of Sanju C. Mathew, dated 29 May 1997 (the "New Jersey Response").

Morris Hills School System submitted: letter of Paul G. Witko, dated 27 May 1997; letter of Joanne L. Butler, dated 15 May 1997.

Randolph School System submitted: letter of Robert D. Kretzer, dated 17 May 1997.

[3] N.J.S.A. 9:6-8.21(c), in pertinent part, provides:

At the time the Superior Court Action was commenced, DYFS had been required to intervene four times to protect Eric Bellesfield. See 22 August 1995 Decision at 1-2. The first intervention occurred in February 1987 when DYFS investigated reports that Michael Bellesfield left Eric Bellesfield, who was a young boy at that time, unsupervised. See Amended Complaint, ¶ 9. DYFS intervention ceased once Michael Bellesfield obtained a baby-sitter. See id. The second intervention occurred in March 1992 when Eric Bellesfield ran away from home and reported Michael Bellesfield had hit him several times. See 22 August 1995 Decision at 1-2. At that time, DYFS determined not to seek protective custody of Eric Bellesfield, but recommended that Michael and Eric Bellesfield seek therapy. See id.

On 10 April 1992, Eric Bellesfield again reported being hit by Michael Bellesfield. See 22 August 1995 Decision at 2. The DYFS case worker assigned to the case observed that Michael Bellesfield was hostile and angry. See id. DYFS, however, again did not seek protective custody of Eric Bellesfield. See id. In May 1992, Michael Bellesfield voluntarily entered a hospital for psychiatric treatment. See id. In June 1992, a psychiatrist examined Eric Bellesfield and concluded he needed both "'active sponsorship and an endorsement in a therapeutic relationship.'" See id.

On 16 August 1993, Eric Bellesfield reported being hit by Michael Bellesfield to the Massachusetts Department of Social Services. See 22 August 1995 Decision at 2. At that time, Michael Bellesfield refused therapy and also refused to accept a counseling referral for Eric Bellesfield. See id.

> a child whose physical, mental, or emotional condition has been impaired or is in imminent dange of becoming impaired as the result of the failure of his parent or guardian ... to exercise a minimum degree of care ... in providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm or substantial risk thereof, including the infliction of excessive corporal punishment; or by any other acts of a similarly serious nature requiring the aid of the Court.

N.J.S.A. 9:6-8.21(c).

After DYFS commenced the Superior Court Action and Eric Bellesfield was taken into protective custody, contact between Michael Bellesfield and Eric Bellesfield was limited to supervised church and counseling visits arranged through DYFS. See 22 August 1995 Decision at 2. Michael Bellesfield was ordered to obtain psychological evaluations, provide past psychological information and provide information about other family members. See id.

In July 1994, Michael Bellesfield sought an immediate change of custody alleging the foster parents caring for Eric Bellesfield had physically disciplined him. See 22 August 1995 Decision at 2. Michael Bellesfield sued the foster family and improperly attempted communication with them. See id.

The failure of Michael Bellesfield to comply with rules regarding church and counseling visitations led to restrictions on such access. See 22 August 1995 Decision at 2. One event leading to this restriction was when Michael Bellesfield handed a note to Eric Bellesfield during a church service. See id. The note instructed Eric Bellesfield to copy a letter prepared by Michael Bellesfield which stated Eric Bellesfield had lied and that the foster parents had hit him.[4] See id.

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[4] The note Michael Bellesfield passed to his son read:

> THEY ARE TRYING TO RUIN THE ____ YOU MUST WRITE THE FOLLOWING RIGHT HERE - RIGHT NOW (I WILL SHOW ONLY TO THE JUDGE)
>
> _____
> DEAR DAD -
> PLEASE DON'T TELL ANYONE I WROTE TO YOU. THEY WILL HURT ME IF THEY FIND OUT ___ MADE ME FILL OUT AN APPLICATION FOR RANDOLPH HIGH SCHOOL BECAUSE THEY FOUND OUT I WANT TO GO TO CATHOLIC SCHOOL. I HATE RANDOLPH. PLEASE DO WHATEVER YOU HAVE TO SO I CAN COME HOME OR SO I CAN GO WITH _____. THEY WILL HIT ME AGAIN IF YOU TELL THEM I WROTE. JUST PLEASE HELP ME

On 18 July 1995 and 19 July 1995, a trial was conducted by the New Jersey Superior Court (the "Superior Court"). See 22 August 1995 Decision at 1; Amended Complaint, 🕮 11. The Superior Court interviewed Eric Bellesfield on 4 August 1995 and later filed the 22 August 1995 Decision determining Eric Bellesfield had been abused, as defined by N.J.S.A. 9:6-8.21(c) 22 August 1995 Decision at 5. Citing the psychological evaluations indicating Michael Bellesfield suffers from "a predominantly paranoid and passive-aggressive character disorder," the court held Michael Bellesfield posed a high risk to abuse Eric Bellesfield. Id. at 4-5.

Since 22 August 1995, a number of dispositional orders have been entered by the Superior Court ordering that Eric Bellesfield remain in DYFS protective custody and directing Michael Bellesfield to enter into therapy. See New Jersey Response, Exh. B. On 16 April 1997, venue in the Superior Court Action was transferred from Morris County to Middlesex County because Michael Bellesfield had recently moved to Middlesex County. See 16 April 1997 Superior Court Order (the "16 April 1997 Order"), attached as Exhibit C to the New Jersey Response. It also appears a status review hearing was scheduled for 29 May 1997 in the Middlesex Superior Court. See New Jersey Response at 6. The Superior Court Action remains pending.

B. Procedural History

On 11 March 1997, Michael Bellesfield filed the complaint (the "Complaint") in the instant action. The paragraphs of the Complaint were not numbered, the Complaint totaled thirty-nine pages of legal and factual argument and included an appendix of more than one hundred pages. The Complaint purported to be a

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> COME HOME. I'LL NEVER LIE AGAIN. I LOVE YOU. YOUR SON ____.
>
> _____
> IF YOU DON'T WRITE THIS WILL BE THE LAST TIME WE SEE EACH OTHER. WE NEED THIS AS A WEAPON. IS WILL BE CAREFUL WITH IT. KEEP SECRET!

22 August 1995 Decision at 3.

combination habeas corpus petition, see 28 U.S.C. § 2255, and a Civil Rights complaint. See 42 U.S.C. § 1983. Complaint at 1.

On 18 March 1997, an order (the "18 March 1997 Order") was filed. The 18 March 1997 Order indicated several deficiencies of the Complaint, including that the Complaint did not comply with Fed.R.Civ.P. 8(a), did not state a cause of action for habeas corpus relief and "seeks to interrupt ongoing State Judicial proceedings." Id. Michael Bellesfield was given leave to file an amended pleading that corrected the noted deficiencies. Id.

On 18 March 1997, Michael Bellesfield filed an emergent order to show cause (the "Bellesfield Order to Show Cause") seeking a Federal court injunction to prevent a summary hearing scheduled to be held in the Superior Court regarding the parental rights of Michael Bellesfield. See Certification of Michael Bellesfield in support to the Bellesfield Order to Show Cause, dated 17 March 1997. On 26 March 1997 Order denied the relief sought by the Bellesfield Order to Show Cause because Michael Bellesfield had not yet complied with the 18 March 1997 Order. See 26 March 1997 Order. The Bellesfield Order to Show Cause was also dismissed because the "summary hearing" Michael Bellesfield sought to enjoin could be adjourned at the request of Michael Bellesfield and, accordingly, an injunction was not necessary. Id.

On 26 March 1997, Michael Bellesfield filed the Amended Complaint seeking immediate release of Eric Bellesfield from foster care, damages in the amount of $3,000,000 and a temporary injunction preventing New Jersey from continuing the Superior Court Action. Amended Complaint, 🕮🕮 2, 25, 31, 66. On 23 April 1997, Michael Bellesfield filed a motion for injunctive relief (the "Motion"). Also on 23 April 1997, the Order to Show Cause was filed. The Order to Show Cause denied the relief sought in the Motion because Bellesfield failed to provide proof the Motion has been served upon Defendants and because it was filed prior to service of the Amended Complaint. See Order to Show Cause. Accordingly, the Motion appeared to be an improper ex parte communication.

The Order to Show Cause observed "that to grant the relief sought would disrupt the integrity of the State judicial proceedings and 'would demonstrate a lack of respect for the State as a sovereign.'" Id. (quoting New Orleans Pub. Serv., Inc. v. Council of New Orleans, 491 U.S. 350, 369, (1989)). Accordingly, Michael Bellesfield was ordered to show cause why this court should not abstain from exercising jurisdiction in this case. Id.

Discussion

A. Standard of Review

Pro se submissions "must be held to 'less stringent standards than formal pleadings drafted by lawyers.'" Estelle v. Gamble, 429 U.S. 97, 106 (1976), reh'g denied, 429 U.S. 1066 (1977) (quoting Conely v. Gibson, 355 U.S. 41, 45-46 (1957)); see also Haines v. Kerner, 404 U.S. 519, 520 (holding pro se petitioner should be able to present evidence on his Section 1983 claims unless the Conley v. Gibson "appears beyond doubt" standard satisfies court claim cannot be proved), reh'g denied, 405 U.S. 948 (1972); McDowell v. Delaware State Police, 88 F.3d 188, 189 (3d Cir. 1996); United States v. Day, 969 F.2d 39, 42 (3d Cir. 1992) (holding pro se petition cannot be held to same standard as pleadings drafted by attorneys); Lewis v. Attorney Gen. of United States, 878 F.2d 714, 722 (3d Cir. 1989).

B. Abstention

In Younger v. Harris, 401 U.S. 37, 43-44 (1971), the Supreme Court developed an abstention doctrine (the "Younger Abstention Doctrine") preventing Federal courts from interfering with pending state court proceedings, even when there is an allegation of a constitutional violation. Id. Although Younger addressed abstention in the context of enjoining pending state criminal prosecutions, the Supreme Court later extended the Younger Abstention Doctrine to include state civil proceedings, in which important state interests are implicated and where the Federal claimant has an opportunity to raise his or her constitutional claims in the state forum. See New Orleans Pub. Serv., Inc., 491 U.S. at

368; Juidice v. Vail, 430 U.S. 327, 334 (1977); Huffman v. Pursue, Ltd., 420 U.S. 592, 604, reh'g denied, 421 U.S. 921 (1975); see also Pennzoil Co. V. Texaco, Inc., 481 U.S. 1, 10-14 (1987); Ohio Civil Rights Comm'n v. Dayton Christian Schools, Inc., 477 U.S. 619, 627-29 (1986); Middlesex County Ethics Comm. v. Garden State Bar Ass'n, 457 U.S. 423, 431-32 (1982); Moore v. Sims, 442 U.S. 415, 423 (1979); FOCUS v. Allegheny County Court of Common Pleas, 75 F.3d 834, 843 (3d Cir. 1996); Marks v. Stinson, 19 F.3d 873, 883 (3d Cir. 1993).

Abstention by Federal courts developed "out of deference to the paramount interests of another state sovereign, ... the concern is with principles of comity and Federalism." Quackenbush v. Allstate Ins. Co., ___ U.S. ___, 116 S.Ct. 1712, 1724 (1996) (citing Younger, 401 U.S. at 44, 45); see also Freehold Cogeneration Assocs. v. Board of Regulatory Comm'rs, 44 F.3d 1178, 1187 n.6 (3d Cir. 1995), cert. denied, ___ U.S. ___, 116 S.Ct. 68 (1995). "For Younger purposes, the State's trials and appeals process is treated as a unitary system, and for a [F[ederal court to disrupt its integrity by intervening in mid-process would demonstrate a lack of respect for the State as sovereign." New Orleans Pub. Serv., Inc., 491 U.S. at 369.

The Court in Middlesex County Ethics Comm. articulated a three-part test to determine whether the Younger Abstention Doctrine should be applied in a particular case. 457 U.S. at 432. Under this three-part test: (1) there must be a pending or ongoing state proceeding which is judicial in nature, (2) the state proceedings must implicate important state interests and (3) the state proceeding must afford the plaintiff an opportunity to raise any constitutional issues. see id.; FOCUS V. Allegheny County. Ct. of Common Pleas, 75 F.3d 834, 843 (3d Cir. 1996) (citing Port Auth. PBA v. Port Auth. of New York & New Jersey, 973 F.2d 169, 173 (3d Cir. 1992)); Acierno v. New Castle County, 40 F.3d 645, 655 n.13 (3d Cir. 1994) (citing Marks, 19 F.3d at 882); O'Neill v. City of Philadelphia, 32 F.3d 785, 789 (3d Cir. 1994) (citing Middlesex County Ethics Comm., 457 U.S. at 432; Olde Discount Corp. v. Tupman, 1 F.3d 202, 211 (3d Cir.1993), cert. denied, 510 U.S. 1065 (1994)), cert. denied, ___ U.S. ___, 115

S.Ct. 1355 (1995); Jordan v. Fox, Rothschild, O'Brien & Frankel, 20 F.3d 1250, 1264 n.14 (3d Cir. 1994) (citing Schall v. Joyce, 885 F.2d 101, 106 (3d Cir. 1989); see also Gwynedd Properties, Inc. v. Lower Gwynedd Township, 970 F.2d 1195, 1200 (3d Cir. 1992); Kentucky West Virginia Gas Co. v. Pennsylvania Pub. Util. Comm'n, 791 F.2d 1111, 116 (3d Cir. 1986).

If these three criteria are met, a Federal court should abstain from hearing the matter unless there has been a "showing of bad faith, harassment, or any unusual circumstances that would call for equitable relief." Younger, 401 U.S. at 37; Olde Discount, 1 F.3d at 213 (citing Southland Corp. v. Keating, 465 U.S. 1 (1983)); Schall, 885 F.2d at 106.

1. Ongoing State Proceedings

The Circuit has held when there is an ongoing proceeding in state court which concerns the "very same parties and the very same issues as the present [F]ederal suit, the first requirement for Younger abstention - ongoing state proceedings of a judicial nature - is satisfied[.]" Port Auth. PBA, 973 F.2d at 173.

As indicated in both the Amended Complaint and the exhibits attached to the New Jersey Response, the Superior Court Action involves the custody of Eric Bellesfield. Amended Complaint, 🕮 11; New Jersey Response, Exhs. A-C. A hearing date was scheduled in the Superior Court Action as recently as 29 May 1997 and the case is ongoing. See New Jersey Response at 6. The argument by Michael Bellesfield that the case is not ongoing because of the change in venue, see Bellesfield Response at 3, is without merit. The Superior Court Action was moved from Morris County to Middlesex County because of the change of residence of Michael Bellesfield; the move did not affect the ongoing nature of the Superior Court Action. See 16 April 1997 Order.

The instant action has the same operative facts of the Superior Court Action. The parental rights of Michael Bellesfield and the custody of Eric Bellesfield are the core issues in both actions. See Amended Complaint, 🕮 2. Accordingly, there is an ongoing state

proceeding which is based upon the same set of operative facts as the instant action and the first requirement for Younger abstention is met.

2. Important State Interests

To grant the relief desired would require this curt to interfere with the State of New Jersey's interest in family welfare. The Circuit has stated "abstention reflects 'a strong [F]ederal policy against [F]ederal-court interference with pending state judicial proceedings absent extraordinary circumstances.'" Gwynedd Properties, 970 F.2d at 1200 (quoting Middlesex County, 457 U.S. at 431). The Circuit explained: "[T]he Supreme Court's holding in, 457 U.S. at 431). The Circuit explained: "[T]he Supreme Court's holding in Younger rested primarily on considerations of 'comity,' a concept which encompasses 'a proper respect for state functions.'" O'Neil, 32 F.3d at 791 (quoting Younger, 401 U.S. at 44). Abstention principles are applicable in civil actions "if the State's interests in the proceeding are so important that exercise of [F]ederal judicial power would disregard the comity between the States and the National Government." Pennzoil Co., 481 U.S. at 11; see also Schall, F.2d at 107.

The Supreme Court has explained:

> [W]hen we inquire into the substantiality of the State's interest in its proceedings we do not look narrowly to its interest in the outcome of the particular case -- which could arguably be offset by a substantial [F]ederal interest in the opposite outcome. Rather what we look to is the importance of the generic proceedings to the state.

New Orleans Pub. Serv., 491 U.S. at 365 (emphasis in the original). The Supreme Court and the Circuit have applied this reasoning in numerous contexts in determining that a particular state interest was important enough to meet the second requirement for Younger abstention. See, e.g., Huffman, 420 U.S. at 604 (holding that states have a substantial interest in enforcing a

nuisance statute which was closely related to a criminal proceeding); see also, e.g., New Orleans Pub. Serv., 491 U.S. at 365 (holding Louisiana has a substantial interest in regulating intrastate retail rates); Dayton Christian Schools, Inc., 477 U.S. at 628 (holding that the elimination of sex discrimination is an important enough state interest to justify Younger abstention); Middlesex County Ethics Comm., 457 U.S. at 434 (holding New Jersey's interest in maintaining and assuring the conduct of licensed attorneys is an important state interest); Moore, 442 U.S. at 435 (holding family relations are a traditional area of state concern); Trainor v. Hernandez, 431 U.S. 434, 444 (1977) (holding maintenance of the fiscal integrity of a public assistance program satisfies the Younger state interest requirement); Juidice, 430 U.S. at 335 (holding a state has an important interest in its contempt process); O'Neill, 32 F.3d at 792 (holding a city has a significant and substantial interest in the regulation of on-street parking and the system implemented to adjudicate parking violations); Olde Discount, 1 F.3d at 212 (holding a state has an interest in regulating securities transactions); Port Auth. PBA, 973 F.2d at 174 (holding state has an interest in enforcing its orders sufficient to satisfy Younger abstention); Schall, 885 F.2d at 111 (holding state has an interest in administering its judgment procedures).

Child welfare is a traditional state function. See Moore, 442 U.S. at 435. "Family relations are a traditional area of state concern .... We are unwilling to conclude that state processes are unequal to the task of accommodating various interests and deciding the constitutional questions that may arise in child-welfare litigation." Id. Accordingly, the State of New Jersey has an important interest in the instant matter.

Abstention in the instant case also protects the state interest in maintaining the integrity of the state court system. New Orleans Pub. Serv., 491 U.S. at 369. Both comity and state court integrity rest upon the importance of the states being able to enforce the orders and judgments of their courts. Pennzoil Co., 481 U.S. at 13; Juidice, 430 U.S. at 334-35. "Pennzoil held that even if the state court proceeding was between two private parties, the state's interest in ensuring that its orders and judgments not be rendered

nugatory was sufficient to require Younger test. See Moore, 442 U.S. at 431.

In the instant matter, Michael Bellesfield seeks an order voiding the custody decision of the Superior Court. Amended Complaint, 🕮 2. Such an order, however, would preempt the extensive fact finding conducted over a three year period by the Superior Court regarding the custody of Eric Bellesfield and other family-related issues. Accordingly, because this case implicates two important state interests, family welfare and integrity of the state court system, the second prong of the 2. Such an order, however, would preempt the extensive fact finding conducted over a three year period by the Superior Court regarding the custody of Eric Bellesfield and other family-related issues. Accordingly, because this case implicates two important state interests, family welfare and integrity of the state court system, the second prong of the Younger abstention test is met.

3. The Ability to Litigate Constitutional Claims in State Court

If a plaintiff has an adequate opportunity to raise his or her Federal claims in state court, the third requirement for If a plaintiff has an adequate opportunity to raise his or her Federal claims in state court, the third requirement for Younger abstention is met. Port Auth. PBA, 973 F.2d at 173 (explaining the third requirement had been satisfied where "[n]o 'state procedural law' or impediment of similar magnitude prevented, or now prevents, the [plaintiffs] from raising their constitutional concerns in the state courts."); see also Juidice, 430 U.S. at 337 ("[I]t is abundantly clear that appellees had an opportunity to present their [F]ederal claims in the state proceedings. No more is required to invoke Younger abstention."); Olde Discount, 1 F.3d at 212 (stating it is sufficient that plaintiff could bring constitutional claims in appeal of administrative proceedings to court of chancery). Plaintiffs, moreover, have the burden of showing that a state procedural bar prevents them from presenting their Federal claims. Schall, 885 F.2d at 107.

Michael Bellesfield has not shown that New Jersey law provided a procedural bar to his constitutional claims in the Superior Court Action. It appears Michael Bellesfield could have challenged the constitutionality of N.J.S.A. 9:6-8.21(c) in the Superior Court Action or on appeal. See New Jersey Response at 10. It also appears Michael Bellesfield could have appealed the 22 August 1995 Decision to the Appellate Division of the New Jersey Superior Court and challenged the custody of Eric Bellesfield in that venue. See id. While it appears Michael Bellesfield is now time-barred from raising his constitutional challenges to the 22 August 1995 Superior Court Decision, he did have an adequate opportunity to raise these issues within the ongoing Superior Court Action. Accordingly, the third requirement for Younger abstention has been met in this case.

4. Bad Faith and Extraordinary Circumstances

Even if the three Middlesex requirements are met, Younger abstention "is inappropriate where the state court proceedings are being undertaken in bad faith to harass the [F]ederal plaintiffs." Port Auth. PBA, 973 F.2d at 176. Abstention is also improper under extraordinary circumstances, "such as where a challenged statue is 'flagrantly violative of express constitutional prohibitions in every clause, sentence and paragraph' and [F]ederal abstention would cause 'irreparable injury." Id. (citing Younger, 401 U.S. at 53). These exceptions are rarely applicable. See Kessler Inst. for Rehabilitation, Inc. v. Mayor and Council of Essex Fells, 876 F.Supp. 641, 659 (D.N.J. 1995). These exceptions also require more than conclusory allegations. See Vincenti v. Hymerling, No.CIV.97-0411, 1997 WL 235126, at *7 (D.N.J. 6 May 1997) (holding plaintiff did not defeat Younger abstention by alleging he was "targeted" by the attorney disciplinary authorities).

Michael Bellesfield alleges the Superior Court Action is part of "a ten year campaign of harassment...by the State agencies." Bellesfield Brief at 3. To support his position, Michael Bellesfield cites Dombrowski v. Pfister, 380 U.S. 479 (1965) where the Supreme Court allowed intervention by the Federal court into state court criminal proceedings. The Dombrowski Court, however,

recognized: "It is generally to be assumed that State courts and prosecutors will observe constitutional limitations as expounded by this Court." Id. at 484.

In Dombrowski, the appellants argued "the threats to enforce the statutes against appellants are not made with any expectation of securing valid convictions, but rather are part of a plan to employ arrests, seizures, and threats of prosecution under color of the statutes to harass appellants and discourage them and their supporters from asserting and attempting to vindicate the constitutional rights of Negro citizens of Louisiana." Id. at 482. Dombrowski concerned the 1960's civil rights movement in the south and is, therefore, factually distinct from the instant case. Accordingly, the facts presented by Michael Bellesfield distinguish his case from Dombrowski. In addition, the Younger Court later held "the Dombrowski decision should not be regarded as having upset the settled doctrines that have always confined very narrowly the availability of injunctive relief against state criminal prosecutions." 401 U.S. at 53.

Michael Bellesfield, in support of his contention of bad faith, provides only conclusory allegations and vague references to a conspiracy involving the Attorney General, DYFS, various schools, and the Public Defender. Michael Bellesfield has merely offered conclusory allegations and has made no showing of band faith which would require intervention by this court. See Vincenti, 1997 WL 235126, at *7.

The 22 August 1995 Decision, moreover, details the evidence warranting the action taken by DYFS. There were four previous reports of abuse, findings that Michael Bellesfield suffers from psychological disorders and evidence Michael Bellesfield used his visits to attempt to manipulate Eric Bellesfield. See id. Accordingly, the bad faith exception of the Younger doctrine does not apply in this case.

Michael Bellesfield alleges the statute violates the Constitution because the lower court used the incorrect standard of review. Bellesfield Response at 5 (citing Santofsky v. Kramer, 455 U.S.

745 (1982) (holding New York child abuse statute unconstitutional)). Michael Bellesfield's argument is without merit and his reliance on Santofsky is misplaced because the plaintiffs who challenged the New York statute raise the constitutional issues at the trial level, as well as at the appellate level. Id. at 751-52. The Supreme Court found the statute unconstitutional only after complete appellate adjudication in the New York state courts. Id. In the instant case, Michael Bellesfield has not demonstrated N.J.S.A. 9.6-8.21(c) is "'flagrantly and patently violative of express constitutional prohibitions in every clause, sentence and paragraph' and [that F]ederal abstention would cause 'irreparable injury.'" Port. Auth. PBA, 973 F.2d at 176 (quoting Younger, 401 U.S. at 53). Accordingly, Michael Bellesfield's challenge of the statute does not justify the intervention of this court. The constitutionality of N.J.S.A. 9.6-8.21(c) could have been tested in the Superior Court Action.

Michael Bellesfield also argues there is the threat of irreparable harm because Eric Bellesfield may become emancipated prior to the conclusion of the state court proceedings. This concern does not justify the intervention of this court into the ongoing Superior Court Action.

The Circuit has observed: "In most-- indeed, nearly all-- circumstances in which the elements of Younger abstention are present, Younger counsels that such a delay is an appropriate price to pay for the preservation of comity between the [F]ederal government and the states." Olde Discount, 1 F.3d at 214. It appears if Michael Bellesfield complies with orders of the Superior Court, the custody issue could be resolved in a year. New Jersey Response at 6. Likewise, had Michael Bellesfield complied with the numerous dispositional orders entered since the 22 August 1995 Superior Court Order, it is possible the custody issue may have been resolved sooner. Accordingly, it does not appear there is irreparable harm in the instant matter which would be resolved by Federal court action.

Conclusion

For the reasons set forth above, the court will abstain from the exercise of jurisdiction over the instant matter. An order accompanies this opinion.

s/" Alfred Lechner "
ALFRED J. LECHNER, JR., U.S.D.J.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

MICHAEL BELLESFIELD, ERIC BELLESFIELD, a minor,	)	CIVIL ACTION NO. 97-1181 (AJL)
Plaintiffs,	)	
v.	)	ORDER TO SHOW CAUSE
ATTORNEY GENERAL, STATE OF NEW JERSEY, PETER VERNIERO, in official capacity only, PETER ALVINO, individually and in official capacity, NEW JERSEY DEPT. OF HUMAN SERVICES WILLIAM WALDMAN, DIRECTOR, in official capacity only, DIVISION OF YOUTH AND FAMILY SERVICES, JAMES VALENTINE, DAVID JOHNSTON, individually and in official capacities FAMILY ENRICHMENT PROGRAM, MORRISTOWN FORENSIC ASSOCIATES MICHAEL SHEA, MICHAEL FIORE, individually and in official capacities, MORRIS COUNTY PUBLIC DEFENDER'S OFFICE, JOEL HARRIS, individually and in official capacity, RUDOLF TWNSP. SCHOOL SYSTEM, CARMINE GAITO, NORMA MIELE, SUSAN AND ERIC HERSCHMAN, individually and in official capacities, MORRIS HILLS SCHOOL SYSTEM, MR. BRADLEY, MR. STORM, individually and in official capacities, CHILD PLACEMENT REVIEW BOARD, SUZANNE WARREN, individually and in official capacity,	)	
Defendants.	)	

This matter having come before the court upon the "Motion for Injunctive and Declaratory Relief" (the "Motion"), filed on 22 April 1997, and it appearing

- The instant action was commenced by the filing of the complaint (the "Complaint"), on 11 March 1997, by pro se plaintiff Michael Bellesfield ("Michael Bellesfield") who has also brought the instant action on behalf of his son Eric Bellesfield ("Eric Bellesfield"), a minor (collectively, the "Plaintiffs"). On 18 March 1997, an order (the "18 March 1997 Order") was filed. The 18 March 1997, an order (the "18 March 1997 Order") was filed. The 18 March 1997 Order noted several deficiencies of the Complaint, including that the Complaint did not comply with Fed.R.Civ.P. 8(a) ("Rule 8 (a)") and that the Complaint "seeks to disrupt ongoing State judicial proceedings." Id. On 26 March 1996, Michael Bellesfield filed an amended complaint (the "Amended Complaint").

- A review of the docket reveals Michael Bellesfield has failed to file proof that either the Complaint or the Amended Complaint has been served upon any defendant. Accordingly, it is impossible to determine whether the defendants have notice of the instant action. Michael Bellesfield, moreover, has also failed file proof the Motion has been served upon any defendant. See Fed.R.Civ.P. 5(b) (requiring that "every written motion other than one which may be heard ex parte" be served upon every party to the action). The Motion, therefore, appears to be an improper ex parte communication. Michael Bellesfield is advised that future ex parte communications will not be accepted.

Because the Motion has apparently been brought before service of the Amended Complaint and apparently has not been served upon defendants, it is denied.

- As indicated, the 18 March 1997 Order observed the Complaint sought "to disrupt ongoing State judicial proceedings." Id. (citing New Orleans Public Service, Inc. v. Council of City of New Orleans, 491 U.S. 350, 369 (1989); Younger v. Harris, 401 U.S. 37 (1971)). The Amended Complaint similarly seeks to disrupt ongoing State judicial proceedings. See Amended Complaint. It appears that to grant the relief sought in the Amended Complaint would disrupt the integrity of the State judicial proceedings and "would demonstrate a lack of respect for the State as a sovereign." New Orleans Public Service, 491 U.S. at 369. Abstention is appropriate where "(1) there are ongoing state proceedings that are judicial in nature; (2) the state proceedings implicate important state interests; and (3) the state proceedings afford an adequate opportunity to raise federal claims." Schall v. Joyce, 885 F.2d 101, 106 (3d Cir. 1989) (citing Middlesex County Ethics Comm. v. Garden State Bar Ass'n, 457 U.S. 423, 432 (1982); Kentucky West Virginia Gas Co. v. Pennsylvania Public Utility Comm'n, 791 F.2d 1111, 1116 (3d Cir. 1986)). In the instant case, all three factors appear present; accordingly, it appears appropriate for the court to abstain from exercising its jurisdiction.

and for good cause shown,

IT IS, on this 22nd day of April, 1997,

ORDERED, that the Motion is denied, and it is further

ORDERED, that Plaintiffs be and hereby are directed to show cause, on 19 May 1997, why the court should not abstain from exercising its jurisdiction over the instant case, and it is further

ORDERED, that Plaintiffs will forward to defendants a copy of this Order to Show Cause, together with the Amended Complaint within one business day of receipt of this Order to Show Cause, and it is further

ORDERED, that Plaintiffs shall file with this court an appropriate brief stating their position in connection with this Order to Show Cause, with a copy delivered each defendant, no later than close of business 9 May 1997, and it is further

ORDERED, that should Plaintiffs fail to submit opposition to this Order to show cause, as directed, this Order to Show Cause shall be deemed unopposed and the instant case will be dismissed and it is further

ORDERED, that defendants may submit briefs regarding this Order to Show Cause and a response to Plaintiffs' brief no later than close of business on 16 May 1997, and it is further

ORDERED, oral argument will not be heard; the decision will be based upon any written submissions received, as permitted herein.

s/" Alfred Lechner "

ALFRED J. LECHNER, JR. U.S.D.J.

SUPERIOR COURT OF NEW JERSEY

Chambers of
Catherine M. Langlois
Judge

Courthouse
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August 22, 1995

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"Not for Publication without the Approval of the Committee on Opinions"

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Re: DYFS v. Michael Bellesfield
Docket No. FN-14-33-94

Counsel:

This matter is before the court on the complaint for protective services filed January 14, 1994 in the matter of Eric Bellesfield. Trial was conducted on July 18 and 19, 1995. The court interviewed Eric on August 4th. Counsel filed written findings of fact and conclusions of law.

Findings of Fact

The complaint before the court was filed January 14, 1995. It alleged, as did the testimony presented by the Division, that there had been three previous reports of abuse of Eric by his father, Michael. In 1992, the Division followed up upon Eric's reports that he had been hit several times by his father and that his father's behavior and demeanor was so menacing that Eric would crouch and freeze. Eric had actually run away from his father at that time. The Division spoke with Mr. Bellesfield and determined not to seek protective services, however, there was the recommendation of therapy for Eric and his father.

In April 1992, Eric again spoke with a division worker and describe being hit. Mr. Lynch followed up with a discussion with services. Mr. Bellesfield was described as angry and hostile to the worker, the school, and Eric's fearful responses were observed. Indeed, Eric begged Mr. Lynch not to tell his father about his report. In May 1992, Mr. Bellesfield voluntarily entered St. Clare's for psychiatric treatment. In June 1992, Dr. Goodman examined Eric and concluded that "he needs active sponsorship and an endorsement in a therapeutic relationship."

In August 1993, there was a report from the Massachusetts Department of Social Services that Eric reported being hit by his father, his father's overreaction to the incident and to other events in the home. Ms. Pollak, the therapist who had worked with Eric and his father for six months in 1993, also reported Eric's explanation of the event, however, just when Ms. Pollak was going to discuss the matter, Mr. Bellesfield canceled sessions and did not accept any referral for Eric. Ms. Pollak concluded that Eric certainly needed counseling with his father, however, he was never returned for that recommended therapy.

In January 1994, Eric reported that his father got very angry over a shoveling incident, dragged him out of a convenience store, and hit him across the chest. The Division intervened immediately

and Mr. Bellesfield at that time signed a voluntary placement agreement. The voluntary placement was subsequently changed to a court ordered placement with a foster family, with evaluations ordered of both Eric and Mr. Bellesfield. Visitation was limited to supervised visits through the Division. Subsequently orders required Mr. Bellesfield to obtain psychological evaluations, provide past psychological information, and provide information about other family members. In July 1994, Mr. Bellesfield decided to represent himself, and sought an immediate change in the custody upon the report that the foster parent had physically disciplined Eric. Mr. Bellesfield sued the foster family and attempted communication with them. Although he was allowed to attend religious services with Eric and see him in a supervised church and therapeutic setting, subsequent orders had to be entered restricting such access due to Mr. Bellesfield's attitude and failure to comply with restrictions. Orders were entered in late 1994 compelling Mr. Bellesfield to comply with the restrictions on visitation and to cooperate with the supervised therapy through FEP and Dr. Fiore.

One of the more serious events during this time was that Mr. Bellesfield slipped a note to Eric at a church visitation. The note read:

> THEY ARE TRYING TO RUIN THE ____ YOU MUST WRITE THE FOLLOWING...RIGHT HERE - RIGHT NOW (I WILL SHOW ONLY TO THE JUDGE)
>
> _____
>
> DEAR DAD -
>
> PLEASE DON'T TELL ANYONE I WROTE TO YOU. THEY WILL HURT ME IF THEY FIND OUT ___ MADE ME FILL OUT AN APPLICATION FOR RANDOLPH HIGH SCHOOL BECAUSE THEY FOUND OUT I WANT TO GO TO CATHOLIC

SCHOOL. I HATE RANDOLPH. PLEASE DO WHATEVER YOU HAVE TO SO I CAN COME HOME OR SO I CAN GO WITH _____. THEY WILL HIT ME AGAIN IF YOU TELL THEM I WROTE. JUST PLEASE HELP ME COME HOME. I'LL NEVER LIE AGAIN. I LOVE YOU. YOUR SON _____

_____

IF YOU DON'T WRITE THIS WILL BE THE LAST TIME WE SEE EACH OTHER. WE NEED THIS AS A WEAPON. I WILL BE CAREFUL WITH IT. KEEP SECRET!

The Division has continued to recommend that Mr. Bellesfield participate in therapy, in therapeutic visitation and meetings with Eric, and comply with the recommendations with the goal of reuniting Eric and his father. It contends that protective services continue to be needed until these requirements are met.

As to Eric's status, the Division's testimony established that the first foster family care was satisfactory. June 995 Eric's home placement was changed. He has continued in therapy with Dr. Fiore. He will be entering high school this September. In his interview with the court, Eric reported the January 1994 incident where his father hit him in the chest; he has been afraid of his father; he wants his father to participate with him in a therapeutic setting, to continue counselling and work things out with him with counselling and therapy for his father. Eric has good memories of some years with his father, those in Hawaii particularly. Eric understands that the purpose of the placement is not to stop all relationship with his father, but to ultimately get him back with his father. He does not want to attend Morris Catholic. Mr. Harris, the guardian for Eric, contends that there should be a finding of abuse and neglect, scheduling a dispositional hearing with the current placement and conditions remaining intact until that hearing.

The court finds that Eric is fragile in his relationship with his father, and wants very much to see and know there is progress in his father's ability to control himself, his temper and his behavior before there is either unsupervised visitation or a return to his father's home.

Conclusions of Law

N.J.S.A. 9:6-8.21c defines an "abused or neglected child" as

> a child whose physical, mental, or emotional condition has been impaired or is in imminent danger of becoming impaired as the result of the failure of his parent or guardian ...to exercise a minimum degree of care... in providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm or substantial risk thereof, including the infliction of excessive corporal punishment; or by any other acts of a similarly serious nature requiring the aid of the Court.

Findings of such abuse or neglect are on a case-by-case basis, with the court directed to consider all the facts unique to the child, the family, and the environment.

Here, the Division and Eric reported physical abuse on January 8, 1994, with an incident of his father's anger being so explosive as to drag his son from a store and hit him across the chest. The incident is viewed particularly from the eyes of the child who had experienced and related in prior DYFS reports fear of his father, explosive and angry acts, a home of fear and "freezing" when his father acted out, and overbearing parental demands not to talk to school counsellors, to retract statements made to school personnel, and to view the school's efforts as a conspiracy.

It is also a factor that the court may consider events when the parent either interferes with access by the Division, or has in the

past had Division intervention and failed to follow its recommendations. See DYFS v. Huggins, 148 N.J. Super. 86 (Camden Cty. Ct. 1977). Parental unfitness is a personal characteristic which, ordinarily, does not vanish overnight, or even within weeks or months. An inference that such a quality persists, in the absence of any evidence that it does not, is not unreasonable. DYFS v. Wunnenburg, 167 N.J.Super. 578, 586 (App. Div. 1979) the effect of neglect upon children is also dependent upon the parent's ability or willingness to change. DYFS v. C.M., 181 N.J. Super. 190, 201 (Camden County Ct. 1981) (parent's chronic mental illness, with refusal for psychiatric treatment, and paranoia considered factors in finding of abuse and neglect).

Here, after the prior investigations by the Division, Mr. Bellesfield followed up only marginally as to counselling, evaluations, and therapeutic involvement for himself and Eric. Even after the January 8th incident, Mr. Bellesfield had to be under persistent and constant orders to get evaluations, provide information, limit access to Eric or the foster family, cooperate with the mental health personnel, be restricted in even the church environment. Most telling, he slipped that note to Eric, threatening him to be silent, encouraging Eric to say he lied, imposing his demands on Eric in a secretive and conspiratorial effort.

As the psychological evaluations establish, Mr. Bellesfield suffers from a predominantly paranoid and passive-aggressive character disorder. He maintains a strong and continued belief in a conspiracy or corruption theory by school system, the Division, and/or the caregiving families involved in Eric's life. This type of disorder can lead to explosive and intimidating behaviors, depression, decompensation, and a lack of any predictability of behaviors.

As Doctors Shea and Fiore testified, there was a risk then and risk now to Eric because Mr. Bellesfield's behavior has not changed most critically, that he still forces and expects Eric to admit that he lied about the incidents. Resistance to change and modification of

behavior, and the expectation of that recantation indicate the Mr. Bellesfield had then, and has now, a high risk of abuse against Eric.

There was not testimony to respond to these serious concerns and ongoing efforts by Mr. Bellesfield to intimidate and conspire with his son. The two witnesses certainly provided their view of a good father-son relationship, as it was so limited to church involvement or friendships. There was no testimony from his treating therapist or his psychiatrist. Mr. Bellesfield chose not to testify, a right he has, yet with a result that having determined, at the end of the State's case, that the Division's proof constituted prima facia evidence of abuse or neglect, the burden shifted to him to demonstrate non-culpability. DYFS v. S.S., 275 N.J. Super. 173 (App. Div. 1994).

The court therefore finds by a preponderance of the evidence that Eric is abused within the meaning of the statue. He has, as particularly evidenced by the January 8, 1994 incident, been and remains at substantial risk of physical, mental and emotional harm by the lack of proper guardianship and failure of his father to exercise even the minimum degree of care.

Counsel shall consult and advise the court as to the date they are all available for a dispositional hearing as soon as possible. Exhibits shall be retained with the curt file until that time. In addition, Eric shall not be ordered to attend Morris Catholic at this time. Mr. Alvino shall prepare an order consistent with this decision.

s/" Catherine Langlois "
CATHERINE M. LANGLOIS, J.S.C.

CML;gg

State of New Jersey

OFFICE OF ADMINISTRATIVE LAW

DECISION

SPECIAL EDUCATION SETTLEMENT

OAL DKT. NO. EDS 3837-93

AGENCY DKT. NO. 93-5306

M.B.,

Petitioner

v.

RANDOLPH TOWNSHIP BOARD OF EDUCATION,

Respondent

Keith Paterson, Esq., for petitioner

Ellen S. Bass, Esq., for respondent

(Rand, Algeier, Tosti & Woodruff, attorneys)

Record Closed: June 18, 1993 Decided: June 29, 1993

BEFORE **JAMES A. OSPENSON**, ALJ:

On April 3, 1993, the petitioner requested a hearing in this matter. In accordance with 20 *U.S.C.* §1415 and 34 *C.F.R.* §300.500 (1986) *et seq.*, the Commissioner of Education requested

that administrative law judge be assigned to conduct a hearing. I was assigned by the Director of the Office of Administrative Law, pursuant to *N.J.S.A.* 52:14F-5o, to hear the matter.

Prior to the scheduled hearing date, the parties entered into settlement discussions and advised that a settlement had been reached. The settlement terms are set forth in the attached consent order.

Based upon the consent order, I CONCLUDE:

1. The parties fully understand the settlement terms.

2. The parties have voluntarily agreed to the settlement terms.

3. The settlement fully disposes of all issues in controversy and is consistent with the law.

Therefore, I **ORDER** that the parties comply with the settlement terms and that these proceedings be and are hereby **CONCLUDED**.

This order is final pursuant to 20 *U.S.C.* §1415(e) and 34 *C.F.R.* §300.509 (1986). If either party feels that the terms of the settlement are not being fully implemented, this concern should be communicated in writing to the Director of the Division of Special Education.

June 29, 1993 — s "James Ospenson"

DATE — JAMES A. OSPENSON, ALJ

amr

KEITH E. PATERSON, ESQ.
1339 Tabor Road
P.O. Box 21
Mt. Tabor, NJ 07878
(201) 625-0044
Attorney for Plaintiff

MICHAEL W. BELLESFIELD,	:	OFFICE OF ADMINISTRATIVE
Plaintiff,	:	LAW
vs.	:	OAL NO. EDS 93-5306
RANDOLPH TOWNSHIP BOARD OF EDUCATION,	:	CONSENT ORDER
Defendant.	:	

This matter having come before the Court by Keith E. Paterson, Esq., attorney for the plaintiff Michael W. Bellesfield, and the Court having witnessed the subscribed consent of counsel for both parties, and it appearing to the Court that settlement has been reached by and between the parties, and for good cause shown;

It is on this 29th day of June, 1993

ORDERED as follows:

1. Attached hereto is a certain Document Inventory, which lists documents disputed by the plaintiff. Defendant agrees to destroy each and every record listed thereon which is more than 18 months old.

2. The remaining documents on the said list shall remain at the office of Norma Miele, Randolph Township Director of Special Services. No one shall have access to the said file, except upon two days notice to the plaintiff.

3. Each of the said remaining documents shall be destroyed when it is 18 months old.

4. Plaintiff's comments dated January 19, 1993 shall be kept in and remain part of the said file.

s/ "James Ogrinc"
ALJ

We consent to the form and entry of the within Order.

RAND, ALGEIER, TOSTI and WOODRUFF, ESQS.

s/ "Keith Paterson" BY: s/ "Ellen Bass"

KEITH E. PATERSON, ESQ.
Attorney for Plaintiff

ELLEN S. BASS, ESQ.
Attorney for Defendant

DOCUMENT INVENTORY

Name of Document	Date of Document
Intervention documentation	6/25/92
Mt. Carmel reports	12/11/92
Case process note	12/22/92
Case process note	1/20/92
Case process note	2/10/92
Memo	2/11/92
Case process note	3/12/92
Case process note	3/13/92
Case process note	5/12/92
Memo	5/18/92
Memo	5/19/92
Case process note - Mahoney	5/22/92
Case process note - Miele	5/22/92
Chronology	5/27/92
Case process note	6/10/87
Case process note	7/21/88
Letter	12/12/92
Letter	12/1/92
Fax	11/29/92
Hawaii Special Services Record	1990
Discipline report	1/24/92
Discipline report	2/24/92
Discipline report	3/24/92
Incidents in music class	1/10/92
Amecdotal records	1/10/
Anecdotal records	10/30/92

Health office visits	9/11/92
Referral to child study team	7/16-17/92
Record of student counseling	Undated
School attendance	1987
School attendance	1992

CONSTITUITIONAL PROVISIONS AND STATUTES RELEVANT TO THIS CASE

TITLE 42. THE PUBLIC HEALTH AND WELFARE

CHAPTER 7. SOCIAL SECURITY ACT
TITLE IV. GRANTS TO STATES FOR AID AND SERVICES TO NEEDY FAMILIES WITH CHILDREN AND FOR CHILD WELFARE SERVICES
PART E. FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE

42 USCS Sec. 671

§ 671. State plan for foster care and adoption assistance

(8) provides safeguards which restrict the use of or disclosure of information concerning individuals assisted under the State plan to purposes directly connected with

(A) the administration of the plan of the State approved under this part, the plan or program of the State under part A, B, or D of this subchapter (including activities under part F of this subchapter) or under subchapter I, V, X, XIV, XVI (as in effect in Puerto Rico, Guam, and the Virgin Islands), XIX, or XX of this chapter, or the supplemental security income program established by subchapter XVI of this chapter,

(B) any investigation, prosecution, or criminal or civil proceeding, conducted in connection with the administration of any such plan or program,

(C) the administration of any other Federal or federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need,

(D) any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental

agency which is authorized by law to conduct such audit or activity, and

(E) reporting and providing information pursuant to paragraph 9 to appropriate authorities with respect to known or suspected child abuse or neglect; and the safeguards so provided shall prohibit disclosure, to any committee or legislative body (other than an agency referred to in clause (D) with respect to an activity referred to in such clause), of any information which identifies by name or address any such applicant or recipient; except that nothing contained herein shall preclude a State from providing standards which restrict disclosures to purposes more limited than those specified herein, or which, in the case of adoptions, prevent disclosure entirely;

CHAPTER 21. CIVIL RIGHTS GENERALLY

42 USCS Sec 1981

Sec. 1981. Equal Rights Under the Law.

(a) Statement of equal rights

All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.

(b) "Make and enforce contracts" defined.

For purposes of this section, the term "make and enforce contracts" includes the making, performance, modification, and termination of contracts, and the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship.

(c) Protection against impairment

The rights protected by this section are protected against impairment by nongovernmental discrimination and impairment under color of State law.

42 USCS Sec 1983

Sec. 1983. Civil Action for Deprivation of Rights.

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

42 USCS Sec 1985

Sec. 1985. Conspiracy to interfere with civil rights

(1) Preventing officer from performing duties

If two or more persons in any State or Territory conspire to prevent, by force, intimidation, or threat, any person from accepting or holding any office, trust, or place of confidence under the United States, or from discharging any duties thereof; or to induce by like means any officer of the United States to leave any State, district, or place, where his duties as an officer are required to be performed, or to injure him in his person or property on account of his lawful discharge of the duties of his office, or while engaged in the lawful discharge thereof, or to injure his

property so as to molest, interrupt, hinder, or impede him in the discharge of his official duties;

(2) Obstructing justice; intimidating party, witness, or juror

If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or of his being or having been such juror; or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws;

(3) Depriving persons of rights or privileges

If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States; or to injure any citizen in person or property on account of such support

or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.

CHAPTER 67. CHILD ABUSE PREVENTION AND TREATMENT AND ADOPTION REFORM GENERAL PROGRAM

42 USCS Sec. 5101

§ 5101. Office on Child Abuse and Negelct

(a) Establishment. The Secretary of Health Education and Human Services may establish an office to be known as the Office on Child Abuse and Neglect.

(b) Purpose. The purpose of the Office established under subsection (a) shall be to execute and coordinate the functions and activities of this Act. In the event that such functions and activities are performed by another entity or entities within the Department of Health an Human Services, the Secretary shall ensure that such functions and activities are executed with the necessary exoertise and in a fully coordinated manner involving regular intradepartmental and interdepartmental consultation with all agencies involved in child abuse and neglect activities.

AMENDMENTS:

1975. Act Jan 4. 1975 added subsec.(c).

1978. Act April 24, 1978, in subsec.(b), in paras. (1) and (3), substitutued "publish and diseminate" for "and publish", in para.(5)

deleted "and" folowing the concluding semicolon in para.6, substituted "and" for a period,and added para.7; in subsec.(c), added "Grants may be made under subsection (b)(5) for periods of not more than three years. Any such grant shwll bw reviewed at least annually by the Secretary utilizing peer review mechanisms to assure the quality and progress of researchconducted under such grant", and added subsec.(d).

1984. Act Oct. 9, 1984, in subsec (a), substituted "of Health, and Human Services" for "of Health, Education, and Welfare"; in subsec.(b), substituted para.(6) for one which read: "make a complete and full study and investigation of the national incidence of child abuse and neglect, including determination of the extent to which incidents of child abuse and neglect are increasing in the number or severity; and", and substituted para.(7) for one which read: "inconsultation with Federal agencies serving on the Advisory Board on Child Abuse and Neglect (established by section 6 of this Act), prepare a comprehensive plan for seeking to bring about maximum coordination of the goals, objectives, and activities of all agencies and organizations which have responsibilities for programs and actvities related to child abuse and neglect, and submit a plan to such Advisory Board not ater than twelve months after the date of enactment of this clause"; in subsec.(c), substituted "The functions of the Secretary under subsection (b) of this section may be carried out" for "The Secretary may carry out his functions under subsection (b) of this section; and added subsec.(e).

1986. Act Aug. 27, 1986, in susec.(b), redesignated former paras. (2)-(7) as paras.(3),(4),(6),(7),(8), and (9), respectively, added new parras (2) and (5), substituted para (7) as redesignated for one which read: "conduct research intom the causes of child abuse and neglect, and into the prevention, identification, and treatment thereof", and added para.(10).

1988. Act April 25, 1988 substitutd then text of this section for text which read:

"(a) The Secretary of Health and Human Services (hereinafter referred to in this Act as the "Secretary") shall establish an office to be known as the National Center on Child Abuse and Neglect (hereinafter referred to in this Act as the "Center")

"(b) The Secretary, through the Center, shall--

"(1) compile, analyze, publish, and disseminate a summary annually of recently conducted and currently conducted research on child abuse and neglect;

"(2) compile, evaluate, publish, and disseminate to each State such materials and inforamtion as may assist the States in achieving the objectives of section 4(d), including an evaluation of various methods and procedures for the investigation and prosecution of child physical and sexual abuse cases and resultant psychological trauma of the child victim;

"(3) develop and maintain an information clearing house on all programs, including private programs, showing promise of success, for prevention, identification, and treatment of child abuse and neglect;

"(4) compile, publish, and disseminate training materials for personnel who are engaged or intend to engage in the prevention, identification, and treatment of child abuse and neglect;

"(5) develop and disseminate, to appropriate State and local officials, model training materilas to assist in training law enforcement, legal, judicial, medical, mental health, and child welfare personnel in appropriate methods of interacting during investigative, administrative, and judicial proceedings with children subjected to child abuse;

"(6) provide tehnical assistance (directly throug a grant or contract) to public and non-profit private agencies and organizations to assist them in planning, improving, developing, and carrying out programs relating to the prevention, identification, and treatment of child abuse and neglect;

"(7) conduct research on the causes, prevention, identification, and treatment of child abuse and neglect, and on appropriate and effective investigative, administrative, and judicial proceedings in cases of child abuse;

"(8) make a complete and full study and investigation of the national incidence of ,child abuse and neglect, including a determination of the extent to which incidents of child abuse and neglet are increasing in number or severity; and

"(9) in consultation with Federal agencies serving on the Advisory Board on Child Abuse and Neglect (established by section 6 of this

Act), prepare a comprehensive plan for seeking to bring about maximum coordination of the goals, objectives, and activities of all agencies and organizations which have responsibilities for programs and activities related to child abuse and neglect, and submit such plan to such Advisory Board not later than twelve months after the date of enactment of this clause;

"(10) not later than two years after the first fiscal year for which funds are obligated under section 1404A of the Victims of Crime Act of 1984, the Secretary shall--

"(A) evaluate the effectiveness of assisted programs in achieving the objectives of section 4(d); and

"(B) submit a report ot the appropriate committees of the Congress of such evaluation and of technical assistance in achieving the objectives of such section provided to the States through the National Center of Child Abuse and Neglect.

The Secretary shall establish research prioritues for making grants or contracts under clause (5) of this subsection and, not less than sixty days before establishing such priorities, shall publish in the Federal Register for public comment a statement of such proposed priorities.

"(c) The functions of the Secretary under subsection (b) of this section may be carried out either directly or by way of grant or contract. Grants may be made under subsection (b)(5) for periods of not more than three years. Any such grant shall be reviewed at least annually by the Secretary, utilizing peer review mechanisms to assure the quality of progress and research conducted under such grant.

"(d) The Secretary shall make available to the Center such staff and resources as are necessary for the Center to carry out effectively it's functions under this Act.

"(e) No fund appropriated under this Act for any grant or contract may be used for any purpose other than that for which such funds were specifically authorized".

1996, Act Oct. 3, 1996 substituted this section for one which read:

"National Center on Child Abuse and Neglect

"(a) Establishment. The Secretary of Health Education and Human Services may establish an office to be known as the Office on Child Abuse and Neglect.

CHAPTER 126. EQUAL OPPORTUNITY FOR INDIVIDUALS WITH DISABILITIES

42 USCS Sec. 12101

§ 12101. Findings and purpose

(a) Findings

The Congress finds that -

(1) some 43,000,000 Americans have one or more physical or mental disabilities, and this number is increasing as the population as a whole is growing older;

(2) historically, society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem;

(3) discrimination against individuals with disabilities persists in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services;

(4) unlike individuals who have experienced discrimination on the basis of race, color, sex, national origin, religion, or age, individuals who have experienced discrimination on the basis of disability have often had no legal recourse to redress such discrimination;

(5) individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory effects of architectural, transportation, and communication barriers, overprotective rules and policies, failure to

make modifications to existing facilities and practices, exclusionary qualification standards and criteria, segregation, and relegation to lesser services, programs, activities, benefits, jobs, or other opportunities;

(6) census data, national polls, and other studies have documented that people with disabilities, as a group, occupy an inferior status in our society, and are severely disadvantaged socially, vocationally, economically, and educationally;

(7) individuals with disabilities are a discrete and insular minority who have been faced with restrictions and limitations, subjected to a history of purposeful unequal treatment, and relegated to a position of political powerlessness in our society, based on characteristics that are beyond the control of such individuals and resulting from stereotypic assumptions not truly indicative of the individual ability of such individuals to participate in, and contribute to, society;

(8) the Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals; and

(9) the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous, and costs the United States billions of dollars in unnecessary expenses resulting from dependency and nonproductivity.

(b) Purpose

It is the purpose of this chapter -

(1) to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;

(2) to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities;

(3) to ensure that the Federal Government plays a central role in enforcing the standards established in this chapter on behalf of individuals with disabilities; and

(4) to invoke the sweep of congressional authority, including the power to enforce the fourteenth amendment and to regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities.

42 USCS Sec. 12112

§ 12112. Discrimination

(a) General rule

No covered entity shall discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.

(b) Construction

As used in subsection (a) of this section, the term "discriminate" includes -

(1) limiting, segregating, or classifying a job applicant or employee in a way that adversely affects the opportunities or status of such applicant or employee because of the disability of such applicant or employee;

(2) participating in a contractual or other arrangement or relationship that has the effect of subjecting a covered entity's qualified applicant or employee with a disability to the discrimination prohibited by this subchapter (such relationship includes a relationship with an employment or referral agency, labor union, an organization providing fringe benefits to an employee of the covered entity, or an organization providing training and

apprenticeship programs);

(3) utilizing standards, criteria, or methods of administration

(A) that have the effect of discrimination on the basis of disability; or

(B) that perpetuate the discrimination of others who are subject to common administrative control;

(4) excluding or otherwise denying equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association;

(5)(A) not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity; or

(B) denying employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, if such denial is based on the need of such covered entity to make reasonable accommodation to the physical or mental impairments of the employee or applicant;

(6) using qualification standards, employment tests or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the standard, test or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and is consistent with business necessity; and

(7) failing to select and administer tests concerning employment in the most effective manner to ensure that, when such test is administered to a job applicant or employee who has a disability that impairs sensory, manual, or speaking skills, such test results accurately reflect the skills, aptitude, or whatever other factor of such applicant or employee that such test purports to measure, rather than reflecting the impaired sensory, manual, or speaking skills of such employee or applicant (except where such skills are the factors that the test purports to measure).

(c) Covered entities in foreign countries

(1) In general

It shall not be unlawful under this section for a covered entity to take any action that constitutes discrimination under this section with respect to an employee in a workplace in a foreign country if compliance with this section would cause such covered entity to violate the law of the foreign country in which such workplace is located.

(2) Control of corporation

(A) Presumption

If an employer controls a corporation whose place of incorporation is a foreign country, any practice that constitutes discrimination under this section and is engaged in by such corporation shall be presumed to be engaged in by such employer.

(B) Exception

This section shall not apply with respect to the foreign operations of an employer that is a foreign person not controlled by an American employer.

(C) Determination

For purposes of this paragraph, the determination of whether an employer controls a corporation shall be based on -

(i) the interrelation of operations;

(ii) the common management;

(iii) the centralized control of labor relations; and

(iv) the common ownership or financial control, of the employer and the corporation.

(d) Medical examinations and inquiries

(1) In general

The prohibition against discrimination as referred to in subsection (a) of this section shall include medical examinations and inquiries.

(2) Preemployment

(A) Prohibited examination or inquiry

Except as provided in paragraph (3), a covered entity shall not conduct a medical examination or make inquiries of a job applicant as to whether such applicant is an individual with a disability or as to the nature or severity of such disability.

(B) Acceptable inquiry

A covered entity may make preemployment inquiries into the ability of an applicant to perform job-related functions.

(3) Employment entrance examination

A covered entity may require a medical examination after an offer of employment has been made to a job applicant and prior to the commencement of the employment duties of such applicant, and may condition an offer of employment on the results of such examination, if -

(A) all entering employees are subjected to such an examination regardless of disability;

(B) information obtained regarding the medical condition or history of the applicant is collected and maintained on separate forms and in separate medical files and is treated as a confidential medical record, except that -

(i) supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations;

(ii) first aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; and

(iii) government officials investigating compliance with this chapter shall be provided relevant information on request; and

(C) the results of such examination are used only in accordance with this subchapter.

(4) Examination and inquiry

(A) Prohibited examinations and inquiries

A covered entity shall not require a medical examination and shall not make inquiries of an employee as to whether such employee is an individual with a disability or as to the nature or severity of the disability, unless such examination or inquiry is shown to be job-related and consistent with business necessity.

(B) Acceptable examinations and inquiries

A covered entity may conduct voluntary medical examinations, including voluntary medical histories, which are part of an employee health program available to employees at that work site. A covered entity may make inquiries into the ability of an employee to perform job-related functions.

(C) Requirement

Information obtained under subparagraph (B) regarding the medical condition or history of any employee are subject to the requirements of subparagraphs (B) and (C) of paragraph (3).

TITLE 18 USC SECTION 242

"Whoever under color of law, statute, or ordinance, regulation, or custom, willfully subjects any inhabitants of any state to the deprivation of any rights, priviledges, or immunites secured or protected by the Constitution or Law of the United States... shall be fined no more than $1000 or imprisoned for one year, or both.".

N.J.S.A. 9:6-8.21(c)

Defines an abused or nelected child as: a child whose physical, mental, or emotional condition has been impaired or is in imminent danger of becoming impaired as the result of his parent or guardian ...to exercise a minimum degree of care...in providing the child with the proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm or substantial risk thereof, including the infliction of excessive corporal punishment; or by any other acts of a similarly serious nature requiring the aid of the court.

OTHER EXHIBITS RELEVANT TO THIS CASE

State of New Jersey
DEPT OF HUMAN SERVICES
Division of Youth and Family Svcs

Bellesfield	KC27381
Case Worker: Johnston	
Morris	

ASSESSMENT PART II

Period Covered 1-10-94 to 2-1-94

SERVICE HISTORY

Summarize previous DYFS involvment. The summary should address:
- reason(s) for prior involvment(s);
- number of 9-7(s) and finding(s);
- services provided including placements; and
- reason for the current involvement including subsequent referrals/reqs.

The Division has had seeral contacts with the Bellesfeilds in the past, they were:

February 2 1987 - Substantiated neglect of Eric, lack of supervised for long periods of time. Mr. Bellesfield corrected problem by securing a sitter that the Division confirmed.

March 8, 1992 - Unsubstantaited physical abuse. Allegations were that Mr. Bellesfield hit Eric. He ran away to the Fire Dept. seeking help. Follow-up w/family stressed counseling and securing of Mr. Bellesfield's psychiatric records. Mr. Bellesfield continued to resist DYFS intervention.

April 10, 1992 - Unsubstantiated physical abuse. This investigation revealed a child that at once was both extremely fearful of his father , then appeared to recant and defend his father. A referral to F.E.P. was made on an emergent basis. Mr. Bellesfied did not follow thru. Case was monitored. A consistant picture of this family having significant mental health issues that impact on Mr. Bellesfield's ability to parent Eric is being drawn. During this case opening Mr. Bellesfield engaged in a positive parenting class and enrolled Eric in weekly counselling at the Dutton Counselling Center. Mr. Bellesfield also contacted Dr. Gerome Goodman to do a psycho-

logical on Eric. This evaluationappeared to be superficial and focused on issues of concern to Mr. Bellesfield. All collateral info. given to Dr. Goodman by the Division received little, if no attention in the evaluation. In May, Mr. Bellesfield palced Eric privately w/ an aquaintance, Carol Hawthorne. Ms. Hawthorne is also a DYFS foster parent. Ms. Hawthorne indicates this is the third time Eric was place with her by his father, with each palcement lasting an entire school year. In June of 1992 Mr. Bellesfeild took Eric from the Hawthornes, ostensibly for a visit since he was just released from St.Clare's, however, he did not return Eric. Mr. Bellesfield continued to resist DYFS services but made an appointment to see a priest at Resurrection Parish. This illustrates Mr. Bellesfield's almost perfunctory compliance with services that probably cannot meet their needs.

August 16, 1993 - Director of a Summer program in Massechusetts alleged that Eric was kicked by his father recently. Eric revealed this to the program during his stay. Once again therapy recommend Mr. Bellesfield is still guarded and presents with the same paranoia of being persecuted. He did ... Eric in therapy at Dr. ...

January 8, 1994 - Allegations that Mr. Bellesfield assaulted Eric and child told neighbor who called police. Mr. Bellesfield cont'd to display his same paranoid ... Eric was afraid to go home. Mr. Bellesfield refused to utilize private placement and ultiately signed a voluntary placement agreement. He revoked agreement on 1/10 and court papers were filed to continue the placement until more comprehensive evaluations could be completed.

Initial Response/Incident Report
Summary of Findings Case Name Bellesfield

The father appeared relieved & told the child how frightened he had been when the child was missing. Worker discussed negative attention with both. Child agreed not to run away.

Conclusion: Abuse not substantiated –
Child had no marks/injuries consistent with abuse.

... s "Marilyn Andersen"
Marilyn Andersen
3/8/92

Initial Response/Incident Report
Summary of Findings Case Name Bellesfield

After meeting with briefly with Eric and his father together and reviewing the agreement with Eric, I left. I placed a call to Rev. Lindsey who returned my call about 9:30 pm. He agreed to keep in touch with Eric and his father over the weekend, although he could not have Eric over. He said he believes Eric exaggerates and has never found Mr. Bellesfield to be inappropriate. I called OCAC and left special instructions to be contacted in case the matter should be called in over the weekend.

CONCLUSIONS

Eric revealed a consistent account of being slapped and pushed down by his father. There were no marks or injuries from the incident, however, Eric did appear terrified of his father and the consequences of his disclosure. Upon his entry into the home Eric's account of events shifted dramatically to implicate the School in causing his disclosure and blowing the story out of proportion. He appeared intense and fearful while giving this account to his father. Upon re-interview, Eric seemed to be recanting his story and his

affect was calm and happy. He showed no fear of his father, but did verbalize he has some fear.

Mr. Bellesfield appeared preoccupied in implicating the school as the cause of his son's distress. He was guarded and intense throughout the interview. At times he appeared hostile, but remained in control.

I believe that both Eric and his father may have significant mental health problems and that Eric may be at risk of emotional abuse. There is no physical evidence of abuse to support a finding of physical abuse. An emergency F.E.P. assessment of the family is warranted to rule out emotional and physical abuse.

s "Brian Lynch"
Brian Lynch
4/20/92

Findings Report

...

There is a problem with Eric attempting to manipulate situations that could get his father and himself in trouble. Worker recommended counseling and Mr. Bellesfield agreed. Collateral with the therapist indicates that Eric is not at risk. It appeared that Mr. Bellesfield is in the process of following through with DYFS recommendation. Worker recommends that this case be closed at intake.

s "Linda Apollo"
Linda Apollo
9/29/93

REFERRAL RESPONSE REPORT

Case Number: KC273819 Case Name: Bellesfield Date: 1/8/94
Screening Worker ID: Valentine
Supervisor: McCann
Assigned Worker ID: Johnston
Supervisor: Moore

Eric was out all day shoveling snow and he was located by his father who was looking for him at Cumberland Farms. Eric states that father yelled at him and punched him in the stomach. There is no injury. Father denied that he hit child. Child is refusing to go home... Police are looking for witnesses at the store. Case was open previously for Lack of Support 1987, Child Abuse, 1993.

s "Valentine" s "Johnston" date:1/9/94 9am

s "McCann" s "Moore" date:1/10/94 10am

SYNOPSIS OF ERIC BELLESFIELD CASE
PREPARED BY: DAVID JOHNSTON, FSS II
3/17/94

The Division's most recent referral regarding Eric Bellesfield came on 1/8/94. This referral came from the Randolph Police Department. The referrant stated that Eric was out shoveling snow and was located by his father at Cumberland Farms. Eric told police that his father yelled at him and punched him in the stomach and chest area.

There is no injury. Father denies he hit child. Child refusing to leave police station. Police called OCAC and SPRU worker responded. Eric repeated his story that his father hit him and that he was afraid to go home. After much discussion, Mr. Bellesfield signed a voluntary placement agreement. Mr. Bellesfield offered no other resources, so Eric was placed in foster care.

STATEMENT TAKEN BY DYFS FROM FOSTER MOTHER

July 12th incident with Eric Bellesfield

1. Overheard Eric yelling at Joey in the next room. while at Vacation Bible School.
2. Went to see why Eric was yelling, he said Joey was hittng him with the ball while they were palying the game. I told him that if he

wanted to play war ball that he would get hit with the ball and if the game was too rough then he should leave.
3. Two minure later Joey came in crying and holding his neck. He told me Eric hit him on the neck.
4. Told Eric to come inand asked why he hit Joey in the neck and was this his way of showing revenge. He started yelling that he did not hit Joey but that he threw the ball from at least five feet. I shook him and placed him in as eat to calm down and told him to stay there.
5. Took Joey to another class so he could calm down.
6. The Pastor of our church spotted me and asked if he could see me upstairs.
7. He told me some money was missing from a teacher's purse and he wanted me to check with the boys. He also mentioned that earlier h observed Eric, Joey and a friend named Richard on the trampoline and Eric was beating Joey on the back with both fists and then smelling his butt. He said Joey was crying.
8. Then while speaking to Pastor I could hear Eric in the downstairs hallway yelling and screaming I didn't do anything I was just playing a game.
9. I proceeded out into the hallway where Eric was yelling and screaming and asked Eric why he had left the room and who gave him permission. He said he wanted to find me and tell me it was just a game and that they were playing and I could ask Richard.
10. I started to take Eric back to my classroom struggling the whole way to lead him there because he just would not calm down.
11. We arrived at my room and I tried to ask hm about the things the Pastor had mentioned and he was just yelling and screaming the entire time and I finally slapped him. This didn't seem to help, now we were both yelling so I decided to leave because we were not talking but yelling.
12. I sent him out the back way of the church and told him to get into the car but he kept yelling he wanted to talk but I was not able to talk over his screaming.
13. He proceeded out into the parking lot yelling and screaming and now the whole church was observing him. I rushed out and put him in the car hoping he would stop but now he was yelling out of the car.

14. I rushed and gathered my things and told Joey to go to the car because we had to leave.
15. As soon as I arrived home I contacted DYFS and left an urgent message for Dave Johnston to call me back.
16. Dave called me and I informed him of the situation and told him I wanted the child removed he said he would come over to speak with me which he did with two other workers.

Rosita Slocum

DYFS CASEWORKER NOTES RE: FOSTER ABUSE

State of New Jersey
DEPT of HUMAN SERVICES
Div. of Youth and Family Svcs
CONTACT SHEET

case name Bellesfield	case no.
case manager	
district office	cost center no.

M V R	contact date	Type of Contact (phone, in-person, written)	Place (office, home, etc.)	Participants (names, relationships)
	7/12	T/C from Rosita Slocum - requested that worker come to the house. She said that @ Vacation Bible School today - the Pastor saw Eric hitting Joey on the back and sniffing Joey's butt. Joey later came to her crying syaing that Eric was hitting him. Rosita also said that a little girl was missing $10.00 @ the program - She said that she probably accussed Eric of having the $ and while she realizes it was very wrong Eric was out of control today. She felt that there was probably nobody else in the program that would take the $. Eric had been asked several times today to quiet down and to stop making bazzare noises. He continued yelling and denying he was hitting Joey or sniffing his butt. She said she slapped him across the face - She says that she realizes that this was wrong and she does not need to be reacting this way. She said that it was a reaction that was an accumulation of the last six		

		months. She was asking for Eric to be removed because he continually lies and plays one person against the other. He doesn't follow thought with chores then syas he does. She asked for worker to come out and discuss the issue with her. Worker discussed this latest incident with Supv J Moore who inturn spoke with Casework Supv D. Vreiseme. Wkr was asked to respond to the home along with Foster Home Provider Carol Harris. It was determined that this was a quality of care issue, not an abusive incident, and isolated in nature.

STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES
DIVISION OF YOUTH AND FAMILY SERVICES

Christine Whitman
Governor

EDISON DISTRICT OFFICE
100 Metroplex Drive, Suite 400
Edison, New Jersey 08817-2683
(908) 819-7003

Wm. Waldman
Commissioner

Patricia Balasko-Barr
Director

February 26, 1997

Mr. Michael Bellesfield:
P.O. Box 112
Plainsboro, NJ 08536

Dear Mr. Bellesfield:

This is in response to your recent FAX to our attention and telephone conversation with Mrs. Saba.

Enclosed you will find a copy of the court order dated January 23, 1997, signed by Judge Stephan Smith of Morris County.

As you will recall when Mrs. Saba requested an opportunity to meet with you in your home, you refused to agree to a meeting. You stated the Division has custody of Eric, not you. However you appear to fail to understand that the Division has an obligation to attempt to work with parents of any of the children under our supervision.

As you will note in the order, you are directed to contact the Division to schedule a psychiatric evaluation. However in Mrs. Saba's conversation with you, you said that this will not happen. Please be reminded that you are violating the court order.

Although you indicated you wanted to discuss visitation alternatives, you would not give Mrs. Saba any furhter information. Please therfore be advised that per court order, if youn express an interest in visiting Eric, the Family Enrichment Progrm remains the designated site.

As you are also ordered to engage in therapy, we would suggest you contact Mrs. Saba for names of agencies in this county.

Your son's case was transferred to this District Office as you moved to Middesex County. You will note that you were also ordered to cooperate with the Division caseworker assigned from the Edison District Office.

Enclosed you will find a redacted copy of Eric's most recent school record. For your information, Eric at present, does not attend church.

As you indicated you had some questions about the Child Palcement Review Board recommendation, please be reminded that ahy child placement with the Division is reviewed by the the Child Palcement Review Board twice a year. The communciation you received was from Morris County Child Placement Review Board which reviewed Eric's placement on 2/6/97. The signature on the bottom is a member of the Morris County Child Placement Review Board. It appears you were present at that review and were a party to the recommendations made. Perhaps if you have any nissues to discuss with the individual board members you should contact them directly.

If you wish to discuss any of the further please feel free to call (908) 819-7003 or write to me at my office.

Sincerely,

s/" Ceil Saba "

Ceil Saba
Family Service Specialist

s/" Marilyn Harris"

Marilyn Harris, Supervising
Family Service Specialist

CS:MH:ydh

REVIEW BOARD
RECOMMENDATION TO THE JUDGE
Superior Court – Family Division
(The Child Placement Review Act-NJSA 30:4C-50 et seq.)

Child: Eric Bellesfield	DOB: 7/25/80	County: Morris	CPR Docket: FC-14-65-94
DYFS Case Mgr: Ceil Saba	DYSF Supervisor: Marilyn Harris		DYSF Case No: KC273819-11
Date Orig placement: 01/09/94	Date this placement: 04/22/96		Review Date: 02/06/97
Review Type: X 12 Month		Date of current assessment: 08/08/96	
Authority for placement: __ Voluntary X Court Ordered X Other (explain) both	Placement type (short term plan) X Residential Facility	Is this appropriate? Review Board: X Yes	
DYFS long term plan: X independent living			
1.Date long term goal achieved: 8/08/97		2.Satisfies board: NO	
3.Board permanent arrangment date: 8/98			

Board Findings:
__A. Continued placement outside home is not in childs best interest.
X B. Continued placement outside home is in childs best interest on temporary basis until long term goal is achieved.
__C. Continued placement outside home on temporary basis is in childs best interest, but there is not sufficient information...

Plan satisfies CPR (NJSA:30 4-C-52)	Plan satisfies Review Board	Is it necessary to continue placement
x Yes __ No	x Yes __ No	x Yes __ No

Chairperson CPRB (signature):
s" _____ "
((signature forged by Suzanne Warren)) Date signed: 2/10/97

the Division has been involved with this family on several occassions, the reader of this report is referred to the Division records, as they contain information regarding these referrals of Eric and his father, which will not be repeated here. It should be noted that on September 27, 1993, Catherine Pollack, Eric's therapist, stated to the DYFS worker that Mr. Bellesfield and Eric attended therapy and that she did not believe Mr. Bellesfield presented a risk to Eric. At that time, she stated that Eric was a manipulative child who did not get enough attention because of his father's work schedule. Mr. Bellesfield resumed counseling with Ms. Pollack, and the Division closed the case. However, the case was reopened on January 8, 1994, as a result of a referral from the Randolph Police Department that alleged abuse of Eric by his father. The DYFS worker who investigated the referral observed that Mr. Bellesfield "was agitated and very interested inrelating the history of his conflicts with the Randolph School District". Mr. Bellesfield denied he hit his son on this date. Eric reported that he was afraid to go home, and wanted to return to the home of Carol Hawthorne in Chester, NJ. At that time, Mr. Bellesfeild signed a voluntary placement agreement and Eric was placed in a foster home. [[BEGINNING FALSIFIED SECTION]] Approximately three days later, the Randolph Police Department was called to the Bellesfield home after reports were received that Mr. Bellesfield threatened a male there with a bat. The patrolman who responded determined that Mr. Bellesfield was a danger to himself and transported him to the hospital for psychiatric observation. One day prior to this incident, Mr. Bellesfield stated to the Division worker that he wanted Eric returned to his care and custody.
[[END OF FALSIFIED SECTION]]

...

---

s" Michael Shea " Dated: 2/24/94

Michael Shea,
Morristown Forensic Associates

DYFS RESPONSE REPORT OF 1/8/94

Case Name:Bellesfield KC273819 Date:1/8/94 Worker: Valentine

Worker proceeded to Randolph PD & met with Sgt. Smith, Mr. Bellesfield & Eric Bellesfield – Mr. Bellesfield was interviewed first. He was somewhat agitated and was very concerned with relating stories about Eric in which the B of Ed. tried to classify Eric so they could build up their Special Ed. enrollment. He related a the story that this morning Eric went to walk the dog at 10 or 11 AM. He came back in & wanted to go shovel snow – ... he told Eric if you find a shovel & if you shovel our drive then you can shovel. Mr. Bellesfield explained that he lost track of time & before he realized, it was 5 PM & Eric had not called, he went out to find Eric and found him at Cumberland Farm. Eric was in the back of the store talking to a store clerk so he told Eric to leave right now - Mr. Bellesfield denied hitting or pushing Eric, But said he was very upset since Eric did not call home all day and they have a rule that Eric must call home every few hours when he is out.

Mr. Bellesfield further explained that he felt sorry for Eric who had a shovel & broom with him so he gave his son a ride home & yelled at him in the car saying "I'll break your arms and legs if you go back in that store again because the clerks are drug dealers & low lives" Mr. B. said that he would not really hurt Eric But used this as a figure of speech. Mr. B. denies that he hit Eric But he did say that he was very upset & he yelled at Eric & will punish Eric By not allowing him to Earn money By shoveling snow & By not allowing him into the Store Again. Wne Mr. B. & Eric returned home Eric was sent next door to return a shovel he had Borrowed and rather than just leave the Shovel Eric went into the home. Mr. B. was concerned about this since he does not know the neighbors. After waiting for Eric to return for about 30 minutes Mr. B. went to the neighbors home to get Eric and when he walked into the home the neighbor was calling the Randolph PD accusing Mr. B. of abusing Eric today. The police arrived & took Eric to HQ & he followed them to HQ he went home since they were calling DYFS & Came Back when the police told him I was on my way. Mr. Bellesfield appeared agitated and paranoid to some degree. He

repeated that the school was was in a conspiracy against him & Eric, and all the administrators on the Board of Ed are against Him. He did say that Eric does well in school & he follows his work closely.

Worker next met with Eric who had been discussing the situation with Sgt. Smith. Eric claimed that he was out today for 3 or 4 hours shoveling driveways & he Earned over 25 Dollars, he was at Cumberland Farms converting small bills into $10 Bills when his father came looking for him. Eric was very upset when I told him that his father denied Hitting him, Eric claimed that he did not want to go home with his father, & that I should call Mr. Lynch from DYFS for Info...

At this point worker consulted with SPRU Sup who happened to be Brian Lynch.SPRU Sup was well aware of this case...

SPRU Sup explained that Mr. Bellesfield is most volitile while under stress & that losing a job is stree provoking to Mr. Bellesfield as are situations between himself & Eric. Worker explained that I will attempt to arrange a private placement with Mr. Bellesfield with the Hawthornes since they are known to the family. &/or Voluntary Foster Care - last resort will Be to return Eric if father & Eric seem appropriate . SPRU Sup agreed with this plan. Worker attempted to offer the option of private placement and a call to the Hawthorne home Mr. Bellesfeild refused this option

At this point worker placed a call to CWS Morris DO. She was also in agreement witht th option of Voluntary FC placement, private placement or return home if parties can agree & therapy can be arranged.

<u>IT WAS CLEAR THAT THERE IS NO IMMINENT DANGER IN THIS CASE PRESENTLY SO REMOVAL WAS NOT AN OPTION</u>.

Worker again tried to negotiate a private placement with Mr. Bellesfield but he refused.

At this point I explained that Eric was very upset & should not return to his home & Mr. Bellesfield in frustration agreed that I could take Eric via court order –or- he could Sign a voluntary Foster Care Agreement. See attached Signed Voluntary Foster Care Agreement. Mr. Bellesfield stated that the system was causing serious problems for he & his son & he felt like an abuse victim. [[BEGINNING FALSIFIED PORTION]] I had Mr.

Bellesfield read & make sure that he understood the signed placement agreement & his rights as legal responsible parent & our obligation to work with him on Eric return –or- to go to court if we feel that Eric or he are inappropriate for reunification. Mr. Bellesfield stated that he understood . [[END OF FALSIFIED PORTION]] But at this point he abruptly charged out of police HQ. Worker conferenced status again with with CWS of Morris & arrangements were made for Eric to receive a physical at Dover General Hosp. (Since they called in another case)

Worker drove Eric to Dover Genral & he registerd & was given a physical Exam By Dr. Ackerman – See attached Medical Report & ER Report on Eric.

Worker consulted with on call SPRU Sup Since I could not locate a family to take Eric at that hour & worker again tried to re-contact emergency Foster Home & finally Eric was accepted for placement in the West Morris Area – See SIS for name of Foster Parents.

Worker drove Eric to Foster Home & Information is exchanged & worker left the Foster Home.

Follow up needs to Be made on Monday or Tues re: clothing check – Status of Mr. Bellesfield & Status of th Foster Home since Parents requested that this must be short term since they have three children in the Home & Babysitting 2 others.

Mr. Bellesfield's status & Mental Health Condition must also Be assessed since he was under extreme stress regarding his own situation jobless & now – his separation from Eric. It is strongly recommended that Mr. Bellesfield Be evaluated & that both he & Eric receive ongoing Family &/or Individual therapy. It should be mentioned that Eric's condition was very Calm after his father left & he was very at ease with the placement.

s "James Valentine"
James Valentine
1/9/94

attachments: 1. Voluntary Foster Car Agreement Signed by Mr. Bellesfield.
2. Medical and ER reports.

SUPERIOR COURT OF NEW JERSEY
Morris and Sussex Counties
PO Box 910
Morristown, New Jersey 07963-0910
(201) 285-6389 FAX (201)538-7664

Michael J. Arnold
Court Administrator

Edie Larsen
Family Division Mgr

Suzanne Warren
Child Placement Review
Board Coordinator

July 20, 1994

Social Security Administration
OCRO Division of Certification and Coverage
330 North Greene Street
Baltimore, Maryland 21201

Re: Terry Lorraine Kenny, Natural Mother
Patrick Kenny, Maternal Grandfather

Dear Sir or Madam,

Some time ago a letter from this office was sent to you in reference to the above-named individuals. The Family Court of Morris County, New Jersey and the Division of Youth and Family Services, State of New Jersey are currently searching for these individuals.

Terry Lorraine Kenny is the natural mother of one of ur children currently in protective custody. In order for the child in question to be made available for adoption all efforts to locate existing relatives must first be exhausted. Your cooperation in this matter is therefore of the utmost importance, and any aid which can be given in this matter is greatly appreciated.

Family Services has obtained Ms. Kenny's birth certificate. I enclose herewith a copy of same so that you may conduct your search.

Should you need to contact me, I may be reached at (201)829-8081.

Very Truly Yours,

s " Sharon Arnold "

Sharon Arnold - CPR Investigator

TM
MMPI-2

TM
MINNESOTA MULTIPHASIC PERSONALITY INVENTORY-2

By Starke R. Hathaway and J. Charnley McKinley

TM
THE MINNESOTA REPORT:
ADULT CLINICAL SYSTEM
INTERPRETIVE REPORT

By James N. Butcher

Client ID: 000001040
Report Date: 05-SEP-94
Age: 41
Sex: Male
Setting:
Education: 14
Marital Status: Divorced

MINNESOTA MULTIPHASIC PERSONALITY INVENTORY-2
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1942, 1943 (renewed 1970), 1989. This report 1991.
All Rights Reserved.

THE MINNESOTA REPORT:
ADULT CLINICAL SYSTEM ID: 000001040
INTERPRETIVE REPORT DATE: 05-SEP-94

PROFILE VALIDITY:
This is a valid MMPI-2 profile. The client's responses to the MMPI-2 validity items suggest that he cooperated with the evaluation enough to provide useful interpretive information. The resulting clinical profile is an adequate indication of his present personality functioning.

The clinical setting in which this MMPI-2 was taken has not been indicated on the answer form. The report has been processed as though "Outpatient Mental Health Program" has been indicated. The report may not be as specific as it would have been if the actual assessment setting had been designated.

SYMPTOMATIC PATTERNS:
This MMPI-2 clinical profile is within normal limits. This client did not report psychological conflicts or situational stresses that are producing great difficulty for him at this time. He appears to be dealing effectively with his life situation, and seems to be obtaining sufficient satisfaction out of life at this point. He appears to have no sex-role conflicts.

In addition the following description is suggested by the content of this client's responses. The client does not appear to be an overly anxious person prone to be developing unrealistic fears. Any fears he reports are more likely to be reality-based than internally generated. His item content suggests he is ratrher non-competitive and passive, generally easygoing, and uncritical of interpersonal situations. He appears to be happy with life and feels positive about the future. His response content reflects a high degree of self-confidence and the ability to deal with life tasks. He considers himself in good health and does not complain of somatic difficulties.

He reports that his work situation in generally satisfactory. No significant negative work attitudes requiring treatment attention were noted in his item content.

INTERPERSONAL RELATIONS:
Quite outgoing and sociable, he has a strong need to be around others. He is gregarious and enjoys interpersonal attention.

AGNOSTIC CONDIDERATIONS:
This profile is within normal limits and no clinical diagnosis is provided.

NOTE: This MMPI-2 interpretation can serve as a useful source of hypotheses about clients. This report is based on objectively derived scale indexes and scale interpretations that have been developed in diverse groups of patients. The personality descriptions, inferences and recommendations contained herein need to be verified by other sources of clinical information since individual clients may not fully match the prototype. The information in this report should most appropriately be used by a trained, qualified test interpreter. The information contained in this report should be considered confidential.

ROBERT J. CHALEMIAN, M.D., P.A.
Telephone (201) 848-0088
301 Sicomac Avenue
Wycoff, New Jersey 07481

315 East 69th Street
New York, New York 10021

September 16, 1994

Grace T. Meyer
669 W. Westwood Ave
Rivervale, New Jersey 07675

Re: MICHAEL BELLESFIELD

Dear Ms. Meyer:

The following is an addendum to my original letter of July 10, 1994. The beginning and middle of this letter is the same as the original one; however, with the inclusion of Dr. Donald Skinner's report and conclusions, I have added a new summary and recommendations. Also included is the complete psychological test report of Dr. Skinner.

At both your and the above named individual's request, I conducted a psychiatric evaluation of Mr. Bellesfield, a 41 year old man who is involved in litigation against the Department of Youth and Family Services (DYFS). It is Mr. Bellesfield's assertion that there has been numerous instances of abuse of discretion on the part of personnel at DYFS as it has related toward Mr. Bellesfield's parental authority over hios current 13 year old son, that authority of which has been abrogated since January, 1994, at which time Eric, Mr. Bellesfield's son, was taken away and placed in foster care. The allegations of DYFS have centered around emotional and physical abuse at the hands of Mr. Bellesfield, all of which are faltly denied by Mr. Bellesfield. The history of DYFS involvement covers about 8 years, and revolve around "their (Local School. Board) attempt to place [Eric] in special ed". Mr. Bellesfield stated that he has never seem any reason to do so, and he has been battling the Board of Education ever since. He has felt that there has been a conspiracy against him because he has resisted to follow their

advice. In Decmber, 1992, Mr. Bellesfield filed a formal complaint against DYFS and the School, and "they took no action".

Pertinent history revealed that Mr. Bellesfield grew up in Warren County, one of three children. His parents apparently still live in Warren County, but Mr. Bellesfield has no contact with them. He stated "I decided to create a life of my own". He graduated from Phillipsburg Catholic High School in 1970, and atended Mercer County Community College for two years, receiving an A.A> degree in 1972. He then studied at several different colleges, but received no further degree.

With regard to Mr. Bellesfield's son, Eric, apparently his natural mother abandoned the family when Eric was 15 months old, and her wherabouts have never been known. Mr. Bellesfiled has been the sole custodian and guardian of Eric. He had been laid off in November, 1993, and he stated that there were more problems with his son since then. Mr. Bellesfield, however, did not percieve that the problems were of any sever intensity.

Pychiatrically, Mr. Bellesfield has been hospitalized on two separate occasions, first in Hawaii at Castle Medical Center in September, 1990, the second in New Jersey at St. Claire's Hospital in May, 1992. The diagnosis in 1992 was Brief Reactive Psychosis, but in 1990, there may have been some depressive elements with paranoia, with the final diagnosis being Major Depressive Disorder with psychotic features and suicidal ideation.

I had the following records at my perusal:

1) St. Claire's Riverside Discharge Summary dated 6/3/92
2) Court Report dated 3/25/94 Morris County Sup. Court
3) Discharge Summary, Castle Medical Center dated 9/17/90
4) Consultation Record Castle Medical Center dated 9/19/90
5) Psychological Test Report dated 7/30/92
6) Therapist Summary, Eric, dated 1/20/94
7) Michael Bellesfield's letter dated 2/7/94
8) Michael Bellesfield's letter dated 2/17/94
9) Ironia Elementary School report dated 2/11/92

10) Morristown Forensic Associates reports dated 3/2/93; 2/24/94

I saw Michael Bellesfield in my office on two occassions, each for approximately 45 minutes. Mental status revealed a tall, well dressed, cooperative man appearing his stated age. There was no evidence of a thinking disorder, and his speech was well modulated and goal oriented. He denied visual or auditory hallucinations, but did admit that in the past, when he was greatly stressed, he would have difficulty perceiving reality (as documented in both hospital summaries). He tended to overreact to stresses and interpret some as threatening when there may have been other opitons he did not consider. He admitted that this occassionally happens, that he had to work on them. He did not appear overtly delusional, however. He realized that the "system" he is fighting against is not inherently evil, but that they are not looking out fore the best interests of his child; and, as such, he feels compelled to proceed on this course of litigation. He denied depressions, but stated that he has gotten depressed in the past, and had suicidal ideation, but denied any active plan. He ststaed that his sleep and appetitie are adequate. He has had a several year history of chronic, mild depression, pri arily due to the stresses in his life, that of rearing a child alone, along with maintaining a full-time job. He is fully oriented, with immediate, recent, and remote memory intact. His concentration ability was intact, as he was able to do a series 7's quickly and accurately. His abstraction ability was good. His insight and judgement appeared to be non-psychotic, although at times his judgement was colored by suspiciousness, and a tendancy toward a paranoid stance (without overt breaks in reality).

Psychological Testing: On July 15 and 18, 1994, Mr. Bellesfield underwent psychological testing by Donald Skinner, PhD. Test administered were Clinical Interview, Draw-A-Person, Sixteen Personality Factor Questionaire, Clinical Analysis Questionaire, Thematic Apperception Test, and Rorschach Ink Blot Test. His report is appended to this report. Several pertinent observations are of interest: 1) "On the Rorschach...(he) produced 20 rich, hghly diferentiated, original, complex, and non-psychotic responses";

"Dynamically, he tends to approach the world in a suspicious manner but he tends to have a playful, sincere, almost needy side to him"; Conclusion: "Mr. Bellesfield is an extremely intelligent, resourceful, single parent, who has managed to raise a child despite some acute psychiatric hospitalizations and financial difficulties. This present evaluation indicated that he is currently stable, aware of his problems and has a healthy, clear vision of his parental responsiblity".

In summary, it is clear from a reasonable degree of medical probablitiy perspective that Mr. Bellesfield's psychiatric issues have been used inappropriately from the vantage point of the Division of Youth and Family Services. I can state this categorically because of the many and varied allegations of instability of Mr. Bellesfield, all of which are in the most general terms, and some of which are within the parameters of normal parenting authority (eg. letter of July 27, 1994, from Michael Shea, counsellor of Eric Bellesfield): "As you are aware Eric began therapy with this therapist to address the emotional and physical abuse that he experienced while in the care of his father..." This type of innuendo is reprehensible. Clearly Mr. Bellesfield had difficulties with maintaining appropriate authority over his son, but such classification of abuse subsumes and assumes severe imbalance on Mr. Bellesfield's part--which he does not have--or malevolent motives toward his son--which is not probable. Mr. Bellesfield does not have a psychotic disorder which renders hom and unfit parent.

It is my clinical opinion that Mr. Bellesfield should immediately be reunited with his son, and his parental authority be reinstated fully. Doing otherwise lacks wisdom and is believed to be detrimental to the present and future wellbeing of his son Eric.

Impression:

AXIS 1: Status Post Brief Reactive Psychosis Adjustment Disorder with Mixed Emotional Features

AXIX 2: Mixed Character Disorder, with Avoidant, Depressive and Paranoid Features.

AXIS 3: No diagnosis

AXIS 4: Stressors: Severe

AXIS 5: Functioning: 75

s / "Robt Chalemian"
Rob't J Chalemian,MD

DR. DONALD SKINNER
PSYCHOLOGIST
550 MAPLE AVE.
RIDGEWOOD, NJ 07450

September 27, 1994
Re: Eric Bellesfield

To Whom It May Concern:

The undersigned was recently presented with a copy of a letter written to Mr. Johnston [DYFS] by Mr. Shea, Psychotherapist, re: Eric Bellesfield.

The undersigned was alarmed by the shocking content matter and recommendations of this letter. The accusations were as follows: It was reported that Eric began therapy to address emotional and physical abuse he experienced while in the care of his father. It emphasized that Eric's therapy focusing on his adjusting to foster care and that he is currently experiencing behavioral problems, one of which includes lying. Finally, Mr. Bellesfiled is portrayed as an intrusive, controlling tyrant, who tells Eric what to say, think, and feel. The recommendations were that Eric must be protected and further visitation must be supervised.

As a clinical specialist in child, adolescent, and family therapy the undersigned is aware that it is the duty of both counselors and state institutions to protect the interests of a child. In the current climate of abuse and victimization, however, these concerns have in some cases blinded us to the real and best interest of the child.

First, the undersigned was not aware that Mr. Bellesfield has been found guilty of committing abusive actions against his son, yet he is being treated as a convicted and dangerous criminal.

Second, the undersigned conducted a complete psychological evaluation, in which he was assessed to be a competent and caring parent.

Third, even if the state strongly felt Mr. Bellesfield and his son required guidance and counseling, why does he continue to remain in foster care? Moreover, there are now reports of problems in the current foster home. Does that mean if it does not work out for Eric, he will be placed in another foster home or maybe a psychiatric institution? Certainly, we are all aware of the tragedy of a child lost in the state system which has so limited resources these days.

The undersigned seriously questions whether or not this case is therapeutically moving in the healthiest direction.

In contrast, the undersigned recommends that Mr. Bellesfield be granted full custody of Eric. Eric should be returned home immediately. It is further recommended that the resources expended to undermine should be instead utilized to support Mr. Bellesfield with respect to being a successful parent.

s "Donald Skinner"
Donald Skinner, Ph.D.

DS/kms

On a number of occassions I asked him questions about how he got along with his father, and he claimed that their relationship was quite good. I asked him as to why the State agencies were involved, and Eric immediately blamed the school stating: " The school called them in." I asked him directly as to whether his father had in any way abused or threatened him or overly punished him. Eric stated: " They want me to say that, but I told you the truth - my father is there for me."

His House-Tree-Person was very unusual. It was of a large temple-like church. Two spires and coluns dwarfed the figure who is coming up the stairs toward the front. Gargoyles are perched on the roof. Both the sun and the moon are in the picture. The Tree is both in leaf and partially dead with a large hole. This was described as a total conception in which the human figure "is waiting for church to begin". Thre is both joy and sadness, awe and mystery.

The overall impression in this examination which lasted more than one hour was conducted privately with only the child, was that Eric is a very intelligent chid who has superior perceptual abilities. He has a creative and imaginative mind and appears to be a very bright child who is not being handled properly in school. I can find no evidence of active psychiatric symtomatology such as depression, phobias or anxiety. The waters run deep, however, in this child and he needs active sponsorship and an endorsement in a therapeutic relationship. From the facts that I have at my disposal, I think it is counterproductive to be continually asking this child as to whether he is being abused at home. This examination does not support that contention.

I trust that this summary of my examination of Eric is helpful for your purposes.

Sincerely,

JDG:pam

s / " Jerome Goodman "
Jerome D. Goodman, MD